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Kenny Jones  
January 25, 2018

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Norman Brown, et al.  
vs.  
Anne L. Precythe, et al.

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MISSOURI  
CENTRAL DIVISION

NORMAN BROWN, et al.,        )  
                                  )  
                  Plaintiffs,    )  
                                  )  
          vs.                    ) Case No. 17-CV-4082  
                                  )  
ANNE L. PRECYTHE, et        )  
al.,                            )  
                                  )  
                  Defendants.    )

CONFIDENTIAL DEPOSITION OF KENNY JONES,  
produced, sworn and examined on the 25th day of  
January, 2018, between the hours of eight o'clock in  
the forenoon and six o'clock in the afternoon of that  
day, at the offices of the Missouri Attorney General's  
Office, Broadway State Office Building, Jefferson City,  
Missouri, before Kim D. Murphy, Certified Court  
Reporter, within and for the State of Missouri.

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A P P E A R A N C E S

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Court Reporter:  
Kim D. Murphy, CCR

1                   IT IS HEREBY STIPULATED AND AGREED, by and  
2   between counsel for the Plaintiffs and counsel for the  
3   Defendants that this deposition may be taken in  
4   shorthand by Kim D. Murphy, CCR, and afterwards  
5   transcribed into typewriting; and the signature of the  
6   witness is expressly waived.

7                                   \*   \*   \*   \*   \*

8                                   KENNY JONES,  
9   of lawful age, produced, sworn and examined on behalf  
10   of the Plaintiffs, deposes and says:

11                                  DIRECT EXAMINATION

12   QUESTIONS BY MS. BREIHAN:

13                   Q.   Good morning, sir.

14                                  Could you please state your name for the  
15   record?

16                   **A.   Kenny Jones.**

17                   Q.   Mr. Jones, my name is Amy Breihan. We  
18   actually met before?

19                   **A.   Yes. At the federal courthouse.**

20                   Q.   Right. You understand you're here for your  
21   deposition today?

22                   **A.   Uh-huh.**

23                   Q.   And is that a yes?

24                   **A.   Yes.**

25                   Q.   So one of the rules that's important to

1 keep in mind today is trying to verbalize answers so it  
2 makes the court reporter's job easier to take down a  
3 written transcript of what we say here today.

4 Have you ever been deposed before?

5 **A. Long time ago.**

6 Q. Multiple times?

7 **A. No.**

8 Q. Do you remember what the case was about  
9 that you were deposed in?

10 **A. I have no memory of what it was.**

11 Q. So I'll just talk about a couple ground  
12 rules. One of which is, as I just mentioned, is  
13 verbalizing our answers -- your answers -- so that the  
14 court reporter can make an accurate record of what's  
15 said here today.

16 My job is to ask you questions that are  
17 relevant to this case, and then your job is to answer  
18 truthfully. But in order to be able to do that, you  
19 have to understand my question. So if I ever ask a  
20 question that's unclear, just let me know. I'll  
21 rephrase it, repeat it, have the reporter read it back;  
22 otherwise, if you answer a question I ask, I'm going to  
23 assume you understood it; is that fair?

24 **A. Fair.**

25 Q. We'll try not to speak over one another.

1 There will be times when I'm asking you a question and  
2 you know where I'm going, and the inclination is to  
3 start the answer.

4 If you would, wait for me to finish the  
5 question before answering, and I'll try to give you the  
6 same courtesy so there's a clean written record of  
7 today's deposition, okay?

8 **A. Okay.**

9 Q. We'll try to take breaks about every hour.  
10 But if you ever need a break, just let us know and  
11 we'll accommodate that.

12 The only caveat is if there's a question  
13 pending, I'd ask that you answer it before we take a  
14 break, okay?

15 **A. Yes.**

16 Q. Could you tell me what you did to prepare  
17 for your deposition today?

18 **A. I read the Interrogatory that you sent out.**  
19 **Someone sent out.**

20 Q. And it looks like you're referring to a  
21 stack of papers in front of you?

22 **A. Yes.**

23 Q. Is that your responses to the First Set of  
24 Interrogatories in the case?

25 MR. SPILLANE: Yes. Would you like to look

1 at it?

2 BY MS. BREIHAN:

3 Q. So you brought with you your Responses to  
4 Plaintiffs' First Set of Interrogatories directed to  
5 the parole board defendants.

6 Did you review this document before today?

7 **A. I glanced at it yesterday.**

8 Q. Other than the Interrogatory responses you  
9 signed, did you review any other documents?

10 **A. No.**

11 Q. Did you speak with anyone other than your  
12 attorneys who are in the room today?

13 **A. No.**

14 Q. Did you review any audio recordings of  
15 parole hearings before your deposition today?

16 **A. No.**

17 Q. I want to ask some questions about your  
18 educational and your work history just to get some  
19 background information.

20 Could you tell me the highest level of  
21 education you've obtained?

22 **A. I have a BS in agriculture from the**  
23 **University of Missouri.**

24 **And then I went to the**  
25 **Highway Patrol Academy. That would be a lot higher**



1     **training.**

2             Q.     When did you graduate from the University  
3     of Missouri?

4             **A.     1972.**

5             Q.     And when did you join -- you said the  
6     Highway Patrol Academy?

7             **A.     November of 1973.**

8             Q.     How long was that academy program?

9             **A.     I think it was 24 -- 22 or 24 weeks.**

10            Q.     When you were getting your BS at the  
11     University of Missouri, did you take any courses in the  
12     law?

13            **A.     Agriculture law.**

14            Q.     Did you take any courses in criminal law?

15            **A.     No.**

16            Q.     Or constitutional law?

17            **A.     No.**

18            Q.     Did you take any courses at the University  
19     of Missouri in psychology?

20            **A.     No.**

21            Q.     Did you take any courses at the University  
22     of Missouri in adolescent development?

23            **A.     No.**

24            Q.     And what about when you were at the  
25     Highway Patrol Academy, did you take any courses in

1 constitutional or criminal law?

2 **A. We studied the traffic statutes.**

3 Q. Other than the traffic statutes, did you  
4 take any courses or have any training in constitutional  
5 or criminal law at the Highway Patrol Academy?

6 **A. Not that I recall.**

7 Q. And what about on the topics of psychology  
8 or adolescent development, did you take any coursework  
9 or training at the Highway Patrol Academy in those  
10 fields?

11 **A. Not that I recall.**

12 Q. Do you have any other -- strike that.

13 When you completed your time at the academy  
14 did you get a degree or certification?

15 **A. I got a certificate of completion and was**  
16 **on active duty for the Highway Patrol.**

17 Q. But it wasn't like a graduate degree  
18 program or a licensing program?

19 **A. No.**

20 Q. Do you have any professional licenses or  
21 certifications?

22 **A. Not at this time.**

23 Q. Did you at one point?

24 **A. I was POST certified for many years.**

25 Q. POST?

1           **A.    Police Officers Standards Training. That's**  
2   **since expired.**

3           Q.    Do you know when that expired?

4           **A.    No.**

5           Q.    Did it occur prior, before you joined the  
6   Missouri parole board?

7           **A.    Yes.**

8           Q.    And are you a member of any professional  
9   organizations?

10          **A.    I don't think so.**

11          Q.    You don't pay membership dues for any  
12   parole-related or corrections-related organization?

13          **A.    No.**

14          Q.    So after you completed your time at the  
15   Highway Patrol Academy, you said you were on active  
16   duty with the Highway Patrol?

17          **A.    Yes.**

18          Q.    How long were you with the Highway Patrol?

19          **A.    I think it was ten months -- or ten years**  
20   **and four months.**

21          Q.    Thirteen years, four months?

22          **A.    Ten.**

23          Q.    I'm sorry, ten years.

24                What did you do after your time with the  
25   Highway Patrol?

1           **A.    I was sheriff of Moniteau County.**

2           Q.    Is that near Jeff City?

3           **A.    It's the next county west of Cole County.**

4           Q.    How long were you Moniteau County sheriff?

5           **A.    Twenty years.**

6           Q.    Did you receive any training during your  
7 employment as the county sheriff in constitutional law?

8           **A.    We had regular yearly training, but I don't**  
9 **recall any constitutional law training.**

10          Q.    And after your time as a sheriff in  
11 Moniteau County, what was your next position?

12          **A.    I was elected to the State Legislature.  I**  
13 **served six years there as a state representative.**

14          Q.    And your party designation was Republican,  
15 right?

16          **A.    Yes.**

17          Q.    What year were you first elected as a state  
18 rep?

19          **A.    I think it was 2005.**

20          Q.    And what committees did you serve on when  
21 you were a state representative?

22          **A.    Public institutions.  Corrections.**

23                **I was the accounts chair for four years.  I**  
24 **was a chairman of that.**

25          Q.    What kind of work did you do, generally

1 speaking, on the corrections committee that you were a  
2 member of while a Republican state representative?

3 **A. The corrections and public institutions**  
4 **committee, we toured some of the facilities. Mostly,**  
5 **actually, just around Fulton area.**

6 Q. Anything else?

7 **A. No. I'd been in at Tipton as sheriff so I**  
8 **was familiar with that institution.**

9 Q. Were you involved in any way in drafting  
10 proposed legislation that impacted or related to parole  
11 proceedings at all?

12 **A. No.**

13 Q. Were you involved in drafting proposed  
14 legislation that related to or impacted juvenile  
15 offenders in any way?

16 **A. No.**

17 Q. And at some point you were appointed to the  
18 parole board of Missouri, correct?

19 **A. Yes.**

20 Q. Was that in 2012?

21 **A. I think it was.**

22 Q. Was that immediately prior to your last  
23 time as a Republican state representative?

24 **A. No. I was -- that was probably a year or**  
25 **two after my term expired.**

1           Q.    What did you do in between the expiration  
2   of your term as state rep and your appointment to the  
3   board?

4           A.    I had a small farm and had a propane sales  
5   business.

6           Q.    Did do you any sort of criminal justice  
7   work or corrections work?

8           A.    No.

9           Q.    During that one-year period -- do you still  
10   have that propane sales business?

11          A.    No.

12          Q.    Do you still have the farm?

13          A.    I still live on the farm.

14          Q.    When you were first appointed to the board  
15   in 2012 did you receive any training?

16          A.    Shortly after being appointed I went to an  
17   academy in Colorado. I think it was NIC.

18          Q.    National Institute of Corrections?

19          A.    Yes.

20          Q.    And that was training specifically for new  
21   board members; is that correct?

22          A.    Yes.

23          Q.    What do you recall from that training?

24          A.    We studied risk versus public safety. And  
25   evidence-based type sentencing. Meaning that release

1     **is based on experience from history.**

2             Q.     Can you explain what you mean by the first  
3     thing you mentioned, risk versus public safety?

4             A.     **Recidivism. Risk, coming back to the**  
5     **penitentiary or to be rearrested.**

6             Q.     What did you learn about that at the time  
7     of your NIC training?

8             A.     **That about half the people who are released**  
9     **will at some point be rearrested or become involved**  
10    **with law enforcement.**

11            Q.     Did you learn anything about how that risk  
12    of rearrest or rate of rearrest varies among different  
13    populations of people?

14            A.     **They -- I'm sure they covered that. That's**  
15    **been several years ago, too. But the concept is that**  
16    **younger people are more likely to come back than older**  
17    **more mature people.**

18            Q.     And do you know, either from your training  
19    at NIC or based off of your experience over the last  
20    six or so years, whether the rate of recidivism or  
21    rearrest varies depending upon the nature of the  
22    underlying offense, not just the age of the individual  
23    when they are released from prison?

24            A.     **Repeat that, would you please?**

25            Q.     Sure.

1                   Do you know -- we were talking about the  
2     rate of rearrest, right, and whether it might vary  
3     depending on different demographics information.

4                   You talked about younger people generally  
5     would be more likely to be rearrested than an older  
6     more mature person that's released on parole, correct?

7                   **A.     Yes.**

8                   Q.     So is there a variance in recidivism rates  
9     on the nature of the underlying offense? So for  
10    example if someone who is released for a lesser offense  
11    more or less likely to re-offend than someone who's  
12    released on a more serious offense, for example, second  
13    degree?

14                  **A.     Yes. The lower level offenses are more**  
15    **likely to come back.**

16                  Q.     Do you remember anything else about the  
17    risk of recidivism that was discussed at the NIC  
18    training when you were first appointed as a board  
19    member?

20                  **A.     We learned that education and job training**  
21    **has a lot to do with whether or not an offender is**  
22    **brought back. And to some degree, programs that are**  
23    **taken in the prison system before release.**

24                  Q.     And the Missouri Department of Corrections  
25    has various programs available and classes for inmates,



1 correct?

2 **A. Yes. They call it HSE now.**

3 Q. HSE?

4 **A. Is that what you were --**

5 Q. Yes, an equivalency degree?

6 **A. Yes. High school equivalency.**

7 Q. And they have also, like, restorative  
8 justice programs, and anger management programming,  
9 that kind of programming available as well?

10 **A. Correct.**

11 Q. And then there are vocational programs that  
12 might provide on-the-job training for inmates, correct?

13 **A. Yes.**

14 Q. Do you know whether the availability of any  
15 of those programs varies by institution?

16 **A. I think there is more availability in the  
17 lower-level institutions.**

18 Q. And how is it determined what level  
19 institution an inmate will be housed in?

20 **A. I don't know. That's not in my purview.  
21 That's a Department of Corrections question.**

22 Q. Another thing you mentioned having learned  
23 at that new board member training in Colorado was  
24 making evidence-based release decisions; is that  
25 correct?

1           **A.     Yes.**

2           Q.     Can you tell me what you mean by that?

3           **A.     I think it means that the studies have been**  
4 **made on people who are released on particular crimes.**  
5 **And the evidence shows that they would come back more**  
6 **likely or stay out more likely.**

7           Q.     Let me know if this is sort of a fair  
8 summary of what that means. You're relying on data and  
9 research in order to make an objective and reliable  
10 decision; is that fair?

11          **A.     Data and research, along with what they**  
12 **have completed in programming, and education, and job**  
13 **training while incarcerated.**

14          Q.     So you're sort of -- if you're making an  
15 evidence-based decision in the context of a parole  
16 grant proceeding, you'd be looking at who the inmate  
17 is, what they've done, and then lining that up to or  
18 comparing it to what data or research has shown  
19 recidivism rates or risk to re-offend; is that fair?

20          **A.     That would be a fair estimate.**

21          Q.     Are there certain evidence-based practices  
22 that are considered best practices to use in -- for  
23 paroling authorities?

24          **A.     The -- we use something called the salient**  
25 **factor, which has been around longer than I have. It**

1     **takes into consideration those factors of**  
2     **evidence-based sentencing.**

3             Q.     And who developed the salient factor score  
4     that the board uses?

5             A.     **I don't know.**

6             Q.     Do you know when it was last updated or  
7     revised?

8             A.     **I don't.**

9             Q.     Other than the salient factor score, does  
10    probation and parole use any other risk assessment  
11    tools to make paroling decisions?

12            A.     **Personal interview.**

13            Q.     Are you saying that a personal interview is  
14    a risk assessment tool?

15            A.     **It is a method to communicate with**  
16    **offenders to see if they're ready for release.**

17            Q.     I understand. Maybe it would be helpful if  
18    you told us what your understanding of what a risk  
19    assessment tool is.

20            A.     **A risk assessment tool, they have static**  
21    **and dynamic. Static is -- refers to age, education,**  
22    **things that are not moving.**

23                    **Dynamic is education, which is always**  
24    **changing, treatment, job training, programming. Of**  
25    **course your age is going to be always moving.**

1           Q.    So it sounds like you're talking about  
2   different factors or variables that might be considered  
3   when making a risk assessment, right?

4           **A.    Yes.**

5           Q.    What's your -- and then the tools that you  
6   sort of run those factors through include the salient  
7   factor score, however that's calculated; is that  
8   correct?

9           **A.    Yes.**

10          Q.    Is there any other tool or scoring  
11   mechanism that probation and parole used to run those  
12   factors through in order to make an evidence-based  
13   paroling decision?

14          **A.    During the interview we talk about home**  
15   **plan.  If they are ready for release, their interests**  
16   **in treatment.  Their interest in job placement.  Job**  
17   **training.  And in-depth communication.  Try to get some**  
18   **idea if they're ready for release.**

19          Q.    And do you -- does probation and parole use  
20   risk assessment -- strike that.

21                Does probation and parole use the salient  
22   factor score for every inmate who is being considered  
23   for parole release?

24          **A.    I don't think there's a salient factor for**  
25   **juveniles.**

1           Q.    So the case we're here about today is about  
2   people who are impacted by Senate Bill 590, and serve  
3   mandatory life without parole sentences or offenses  
4   that were committed when they were under 18.

5                    So I might call them juvenile offenders,  
6   even though they're adults now. I just want to make  
7   that clear.

8                    So are you saying that for these juvenile  
9   offenders, who are the Plaintiffs in this case, that  
10  the salient factor score is not used in making their  
11  paroling decisions?

12           A.    I don't think it is.

13           Q.    And why is that?

14           A.    Because when they came in -- they might  
15  have a salient factor score as they became older, but  
16  they wouldn't have any education, usually. Wouldn't  
17  have a high school diploma. Their age is below adult  
18  status. And I think -- I think it would be irrelevant  
19  at the time of their incarceration.

20           Q.    So is the salient factor score calculated  
21  at the time the inmate is admitted into the Department  
22  of Corrections?

23           A.    No. It's dynamic. It keeps changing with  
24  age, education, job training, readiness for employment.

25           Q.    And is it used in all instances where the

1 inmate who's being considered for parole is not a  
2 juvenile offender?

3 **A. I think so, yes.**

4 Q. Regardless of the severity of the crime?

5 **A. Yes.**

6 Q. Who calculates the salient factor score?

7 **A. I think it's done by the institutional**  
8 **parole officer. It's already calculated when the**  
9 **parole board gets the reports.**

10 Q. And by "the reports" are you talking about  
11 the prehearing reports?

12 **A. Yes.**

13 Q. We kind of got sidetracked a little bit.

14 So I want to go back to the training question which was  
15 asked a few minutes ago.

16 I'd asked whether you received any training  
17 when you were appointed to the board, and we talked  
18 about the NIC training.

19 Is there anything else that you recall from  
20 that NIC training in Colorado that we haven't talked  
21 about yet?

22 **A. Not specifically.**

23 Q. Okay. I know it was a while back, and so  
24 if anything comes to your mind throughout today, you  
25 can always let us know and we can add it to the record.

1                   I think your interrogatory responses, which  
2   you brought with you today, also mentioned a training  
3   you received with the Association of Paroling  
4   Authorities International?

5                   **A.    Yes.**

6                   Q.    When was that training?

7                   **A.    I think I went to one in 2007 in Ohio.  And**  
8   **went to Providence, Rhode Island the next year, I**  
9   **believe.  And they -- and one more in Florida.  Three**  
10 **years ago, I believe.**

11                  Q.    So about 2015 you went to the one in  
12 Florida?

13                  **A.    Yes.**

14                  Q.    Let's just focus on the most recent one you  
15 went to in Florida in 2015.

16                  What do you recall from your training in  
17 Florida in 2015?

18                  **A.    Lots of training on lots of topics.  But**  
19 **the one that I recall most is about fatigue, fatigue of**  
20 **the individuals having the parole hearing.**

21                  Q.    And I think we've heard testimony from  
22 other board members about that.  They've used the term  
23 board fatigue.  Is that what you're talking about?

24                  **A.    Uh-huh.**

25                  Q.    Can you just describe for me generally what

1 your understanding of that term is?

2 **A. Generally, that after about four hours,**  
3 **your attention is -- it's harder to hold your**  
4 **attention. And you should take a break, perhaps a few**  
5 **minutes, and get some refreshments, both food and**  
6 **drink.**

7 Q. We'll try to wrap up the deposition today  
8 within four hours so we don't wear ourselves out too  
9 much.

10 Anything else about the phrase "board  
11 fatigue" as you understand it.

12 **A. No. That pretty well summed it up.**

13 Q. And the idea being that if you're fatigued  
14 that you might not make as sound decisions as you  
15 otherwise would; is that correct?

16 **A. That was the implication, yes.**

17 Q. Do you recall anything other than board  
18 fatigue from your Florida training in 2015?

19 **A. No.**

20 Q. I assume then that there weren't any  
21 training sessions on adolescent development or  
22 psychology?

23 **A. Not that I recall.**

24 Q. Were there any training sessions at that  
25 2015 training or conference regarding juvenile



1 offenders in particular?

2           **A. There could have been, but I didn't go to**  
3 **any that I recall.**

4           Q. So other than those Association of Paroling  
5 Authorities International trainings, and the NIC  
6 training, can you recall any other specific training  
7 that you've received since you've been appointed to the  
8 board in 2012?

9           **A. We've had training at some of the board**  
10 **meetings. Motivational interviewing training.**

11          Q. Anything else?

12          **A. We have regular training. In fact, we have**  
13 **40 hours. It usually has to do with security of**  
14 **information, as computer training is.**

15          Q. So that's 40 hours a year that's required?

16          **A. Yes.**

17          Q. And it's more security or HR-related type  
18 training; is that fair?

19          **A. Yes. Security of information, and who to**  
20 **release it to, and how to protect the information that**  
21 **is on your computer or other methods of communication.**

22          Q. Board members in Missouri serve six-year  
23 terms, correct?

24          **A. Yes.**

25          Q. So your term expired at the end of 2017,

1 correct?

2 **A. Yes.**

3 Q. Were you then -- you've been reappointed to  
4 another six-year term?

5 **A. No.**

6 Q. But are you still a member of the board?

7 **A. Yes.**

8 Q. So how does that work?

9 **A. I'm there until I'm replaced.**

10 Q. Okay. So do you expect to be released?

11 It's unclear to me what your current status is with the  
12 board if your term is expired.

13 **A. I'm just operating -- you're still there**  
14 **until you're either replaced or reappointed.**

15 Q. And you're currently the chair of the  
16 board; is that right?

17 **A. That is correct.**

18 Q. You were appointed in February of 2017?

19 **A. Yes.**

20 Q. Did you receive any particular training  
21 when you transitioned from member to chair?

22 **A. No.**

23 Q. Tell me a little bit how your  
24 responsibilities as chair differ from the  
25 responsibilities and duties when you were just a board

1 member.

2           A.     Since I became chair we have tried to make  
3 our employees work together with one another more  
4 closely. Better communication skills with each other.  
5 Try to get the morale and camaraderie up a little bit.

6           Actually, it's up a lot. And --

7           Q.     So morale was down when you became chair  
8 last year?

9           A.     Yes.

10          Q.     Why was that?

11          A.     I think people just came to work not  
12 understanding that they were a small part of a big  
13 picture. They just came to work, did their job and  
14 went home.

15                 And since my time as chairman, I've  
16 instilled into everyone that they're part of the big  
17 picture and we should work as a team.

18          Q.     What steps did you take to improve  
19 communication and morale among employees and staff?

20          A.     Just personal communication. And we have  
21 an occasional -- days when we have, like, an employees'  
22 meeting, building-wide employees' meeting.

23          Q.     Can you clarify, for my sake, what you mean  
24 by employees? Does that include more, like, board  
25 members and parole analysts?

1           **A. Clerical. It's in the same building, yes.**

2           Q. And that's the Central Office here in  
3 Jefferson City?

4           **A. Yes.**

5           Q. Is there anyone other than clerical  
6 support, analysts, and board members that fall under  
7 that umbrella of employees you're talking about?

8           **A. The members of the command center. Or**  
9 **their employees and they come to the meetings.**

10          Q. And how often are these meetings?

11          **A. Quarterly.**

12          Q. Have you discussed this case of juvenile  
13 offenders at all at any of those meetings?

14          **A. No.**

15          Q. So maybe it would be more helpful if you  
16 tell me what your general responsibilities were when  
17 you were a member of the board. You were hearing --  
18 conducting parole hearings, correct?

19          **A. Just conducting parole hearings.**

20          Q. And reviewing parole files?

21          **A. Yes.**

22          Q. And voting on parole grants or revocations,  
23 correct?

24          **A. Yes.**

25          Q. Is that still true in your position as

1 chair?

2           **A. I do occasionally fill in for someone on**  
3 **parole hearings.**

4           Q. But you're conducting fewer hearings than  
5 you were when you were a member?

6           **A. Yes.**

7           Q. So is the chairmanship more of an  
8 administrative managerial position then?

9           **A. It is.**

10          Q. And who do you report to?

11          **A. The Governor.**

12          Q. You're the divisional director for  
13 probation and parole, too?

14          **A. Correct.**

15          Q. So who do you supervise as chair?

16          **A. Everyone on the board and all the analysts.**  
17 **And as division director, the entire division of**  
18 **probation and parole.**

19          Q. So that would include all institutional  
20 parole officers and district administrators and field  
21 officers as well?

22          **A. Yes.**

23          Q. Do you know how many people in total that  
24 is?

25          **A. Somehow 1170 comes to mind.**

1 Q. That's a lot of people.

2 So you said that you supervise all the  
3 board. So do the board members report to you then?

4 A. They don't really report to me. They do  
5 their jobs. They're pretty -- we're pretty -- we're  
6 able to do our jobs without much supervision from me.

7 Q. Do you have hiring and firing power for  
8 board members?

9 A. No.

10 Q. Are you able to discipline board members if  
11 they do something unethical or unprofessional?

12 A. Yes.

13 Q. You are? Okay. Have you ever done that --

14 A. No.

15 Q. -- in your time as chair.

16 And do you work hand in hand with the  
17 director of the Department of Corrections?

18 A. Yes. I don't know if you'd call it hand in  
19 hand. We're separate from them.

20 Q. Have you had any discussions with the  
21 current director, Ms. Precythe, about any of the  
22 allegations in this case?

23 A. No.

24 Q. Have you had any discussions on Senate Bill  
25 590 hearings, the parole hearings for these juvenile

1   hearings?

2           **A.    No.**

3           Q.    Why not?

4           **A.    She doesn't supervise the parole board.**

5           Q.    So other than supervising these 1170  
6 members of the probation and parole division, what are  
7 your other duties as chair of the board?

8           **A.    Always looking for a better way to do the**  
9 **job.**

10          Q.    What does that mean?

11          **A.    Look for other risk assessment tools. Go**  
12 **to training about communication skills, between**  
13 **employees, or among employees.**

14          Q.    What research have you done regarding  
15 various risk assessment tools?

16          **A.    I haven't done any personal research.**

17          Q.    Have you asked that research be done about  
18 what risk assessment tools are available?

19          **A.    I'm not sure who started the search for a**  
20 **new risk assessment tool, but there has been one that**  
21 **has developed by Ohio, the state of Ohio that we're**  
22 **looking at.**

23          Q.    And who's "we?"

24          **A.    The department. Division of probation and**  
25 **parole.**

1           Q.    And who is the -- who would be making the  
2    decision about whether or not to start using a new risk  
3    assessment tool?

4           A.    Myself, along with the -- I forgot her  
5    status -- but it's the person who works right under me.

6           Q.    Is this a district administrator? A parole  
7    analyst?

8           A.    No. Higher than that. It's Julie Kempker.  
9    I'm not sure what her status is. But we work closely  
10   together.

11          Q.    And you said you don't know how this search  
12   for a new risk assessment tool got started; is that  
13   what you said?

14          A.    I've been meeting -- I've been in meetings  
15   with the director, and with a committee -- really not  
16   with the director, but with a committee who was looking  
17   at new risk assessment tools.

18          Q.    What committee is this?

19          A.    It's just a committee to research new risk  
20   assessment tools.

21          Q.    Does it have a name?

22          A.    No.

23          Q.    Who else is on the committee?

24          A.    I don't know.

25          Q.    You've been in meetings with this



1 committee, right?

2 **A. Yes.**

3 Q. More than one meeting?

4 **A. Yes.**

5 Q. When was the last meeting you had with the  
6 committee?

7 **A. Probably a month ago.**

8 Q. Do you remember who was at that meeting?

9 **A. Ms. Kempker was there. Michelle Kasak.**

10 **And there were about ten other people.**

11 Q. Are there minutes kept from these meetings  
12 about new risk assessment tools?

13 **A. Not that I'm aware of.**

14 Q. Is there any -- do you take any notes from  
15 this meeting?

16 **A. We just watched a video and listened to  
17 conversation.**

18 Q. What video were you watching?

19 **A. Put on by somebody who's trying to sell a  
20 risk assessment tool.**

21 Q. So you watched a sales video?

22 **A. Yes.**

23 Q. Do you remember what the name of the  
24 company or organization was that was promoting the sale  
25 of this risk assessment tool?

1           **A.    It's LS something. But it was costly to**  
2     **the state of Missouri, so I wasn't interested**  
3     **personally.**

4           Q.    So you're interested in getting new risk  
5     assessment tools, but only if it's at no cost to the  
6     state of Missouri?

7           **A.    Or minimal cost.**

8           Q.    Why are you interested in getting a new or  
9     different risk assessment tool?

10          **A.    Missouri is recognized as having one of the**  
11     **best parole systems in the nation and I want to keep us**  
12     **on top.**

13          Q.    Recognized by whom?

14          **A.    By other correctional institutions and**  
15     **parole boards.**

16          Q.    Is there some sort of, like, certificate or  
17     award that Missouri received?

18          **A.    No.**

19          Q.    Are you aware of articles that were, in  
20     fact, attached as exhibits to the complaint filed in  
21     this case that actually say the opposite about the  
22     Missouri parole system?

23          **A.    No.**

24          Q.    Are you aware of any public criticism of  
25     the Missouri parole system?

1           **A.    No.**

2           Q.    I guess other than the criticisms that are  
3   alleged in the complaint, have you read the complaint  
4   in this case?

5           **A.    I did read some information on it but it's**  
6   **been some time ago.**

7           Q.    What do you mean by you read some  
8   information about it?

9           **A.    About the allegations that were brought**  
10   **forward.**

11          Q.    But do you mean you read it in the  
12   complaint? Or you read it in a newspaper article?

13          **A.    It would have been in a complaint.**

14          Q.    So other than this Ohio risk assessment  
15   tool that you mentioned, are there any other tools that  
16   the board is -- this committee is considering or  
17   exploring?

18          **A.    No.   The state supervisor -- chief state**  
19   **supervisor is the title.**

20          Q.    Julie Kempker? So other than supervising  
21   the employees we talked about, and always looking for a  
22   better way to do the job, do you have any other duties  
23   as chair?

24          **A.    No.**

25          Q.    Are you involved in determining policy and

1 procedure for the board?

2 **A. Yes.**

3 Q. And what about policy and procedure that  
4 impacts IPOs or district administrators, have you been  
5 involved in that process as well?

6 **A. Yes.**

7 Q. And that would include policies or  
8 procedures that talk about how hearings are run?

9 **A. Yes.**

10 Q. And the caps for the number of hearings  
11 that the board can conduct each day?

12 **A. Yes.**

13 Q. And what factors are to be considered in  
14 making parole decisions?

15 **A. Yes.**

16 Q. And the process for voting or deliberation?

17 **A. Yes.**

18 Q. And also the process for notifying inmates  
19 of their parole decisions?

20 **A. Yes.**

21 Q. Is Director Precythe involved at all in  
22 setting or determining policy and procedure for the  
23 board?

24 **A. No.**

25 Q. She doesn't have to sign off on anything?

1           **A.    No.**

2           Q.    And how are written policies and procedures  
3 memorialized?  Or where are they memorialized?

4           **A.    They're kept on the computer.**

5           Q.    I guess my question is confusing.  
6 I apologize for that.

7                   My understanding is there's a divisional  
8 manual for probation and parole; is that correct?

9           **A.    There is a manual.**

10          Q.    And does that contain all the policies and  
11 procedures which governs the parole review process?

12          **A.    Yes.**

13          Q.    Do you ever issue operational memos?

14          **A.    Occasionally.**

15          Q.    And are those considered policy and  
16 procedure in your mind?

17          **A.    No.**

18          Q.    No.  Under what circumstances might you  
19 issue an operational memo?

20          **A.    If we had some incident come up -- or not**  
21 **an incident -- but a question about something we were**  
22 **doing, or who could attend parole hearings.**

23          Q.    Can you give me an example?

24          **A.    New parole officers are encouraged to**  
25 **attend a parole board -- or a parole hearing of an**

1     **offender.**

2             Q.     So you might issue an operational memo  
3     saying that new parole officers are encouraged to  
4     attend a parole hearing; is that what you're saying?

5             **A.     Yes.**

6             Q.     And are you familiar with what is called  
7     the Blue Book?

8             **A.     Or the Red Book.    There's a Blue Book and a**  
9     **Red Book and a White Book.**

10            Q.     What are those?

11            **A.     Just rules and regulations pertaining to**  
12     **parole.**

13            Q.     And are those part of the policies and  
14     procedures that help guide the board in doing their  
15     job?

16            **A.     Yes.**

17            Q.     Who's responsible for drafting or revising  
18     this operational -- I'm sorry -- this divisional  
19     manual?

20            **A.     Well, they have a manual work group who**  
21     **works on it for changes should they -- should it need**  
22     **to be updated.**

23            Q.     And who determines when the divisional  
24     manual needs to be updated?

25            **A.     I would say that the chief state**

1     **supervisor.**

2             Q.     So Ms. Kempker, correct?

3             **A.     Yes.**

4             Q.     Who's on this manual work group or this  
5 manual working committee?

6             **A.     Several managers throughout probation and**  
7 **parole statewide.**

8             Q.     Do you know their names?

9             **A.     No.**

10            Q.     Is there a board member on the committee?

11            **A.     No.**

12            Q.     As chair, do you have to sign off on any  
13 changes that are made to the divisional manual?

14            **A.     Yes.**

15            Q.     When was the last time that you did that?

16            **A.     It's been several weeks ago.**

17            Q.     Since you were appointed as chair have you  
18 signed off on any changes to the divisional manual that  
19 relate or impact in any way the issues in this case?

20            **A.     No.**

21            Q.     And what about the Blue Book that we were  
22 just talking about, who is responsible for drafting or  
23 updating that as necessary?

24            **A.     I would have to assume that it's also the**  
25 **manual work group.**

1 Q. You don't know for sure?

2 A. I believe it's a product of that committee.

3 Q. Do you also have to sign off on any changes  
4 to the Blue Book?

5 A. I don't think so.

6 Q. Does anybody on that committee have to sign  
7 off on changes to the Blue Book or the Red Book or the  
8 White Book?

9 A. I would be the only one to review the  
10 changes, yes.

11 Q. But as you sit here today you don't  
12 remember ever doing that?

13 A. No.

14 Q. Are you also responsible for not just for  
15 determining policy and procedure, but also for ensuring  
16 that these staff and board members who you oversee  
17 comply with policy and procedure?

18 A. Yes.

19 Q. How do you do that?

20 A. Simply if there's a change in the book, or  
21 a question, we -- we would go over it. If there's a  
22 question they would bring it to me, or to other  
23 analysts, and discuss the situation.

24 Q. Anything else?

25 A. No.



1           Q.    Do you ever audit or review hearings or  
2    decisions in order to ensure compliance with policy and  
3    procedure?

4           **A.    No.**

5           Q.    Are you also responsible as chair for  
6    ensuring that the staff you oversee, including board  
7    members, comply with the law by statute and also the  
8    Code of State Regulations?

9           **A.    Yes.**

10          Q.    And how do you do that?

11          **A.    I rely on my staff to make sure that their**  
12       **subordinates maintain integrity of the statutes and the**  
13       **Code of State Regulations.**

14          Q.    But again, you don't do any sort of audit  
15    of decisions or hearings to make sure that the law is  
16    being followed?

17          **A.    I don't personally.**

18          Q.    Do you know of somebody who does?

19          **A.    Every case is looked over.  Every file is**  
20       **looked over by more than one set of eyes before it is**  
21       **finalized.**

22          Q.    You're talking about the voting process  
23    after a hearing?

24          **A.    Yes.**

25          Q.    But there's not some sort of auditing or

1 review process in place through which those decisions  
2 are reviewed and checked against procedure or policy?

3 **A. No.**

4 Q. And the hearings themselves, there's only  
5 one board member that's physically present during the  
6 hearing, correct?

7 **A. Yes.**

8 Q. There's not a transcript of the hearing in  
9 the parole file, correct?

10 **A. No.**

11 Q. Are you also responsible as chair for  
12 ensuring that hearings are conducted in an ethical and  
13 professional manner?

14 **A. Yes.**

15 Q. How do you do that?

16 **A. I review any complaints that we get.**

17 Q. Other than the named Plaintiffs in this  
18 case, have you received any complaints about other  
19 Senate Bill 590 hearings?

20 **A. No.**

21 Q. Are you also responsible as chair for  
22 ensuring that the paroling decisions are objective,  
23 fair and evidence-based?

24 **A. Yes.**

25 Q. And how do you do that?

1           **A. By communicating to the board members and**  
2   **sending them to training so that they're aware of the**  
3   **effective ways to do their job.**

4           Q. So part of it is identifying and providing  
5   training opportunities to the board members?

6           **A. Yes.**

7           Q. Especially on developing areas of the law  
8   or new risk assessment tools or best practices,  
9   correct?

10          **A. Yes.**

11          Q. Have you offered or sought out any training  
12   related to juvenile offenders in particular?

13          **A. No.**

14          Q. Has the board received or requested any  
15   training on how to implement Senate Bill 590 which was  
16   passed in 2016?

17          **A. No.**

18          Q. And one of the things you talked about  
19   earlier was the board fatigue.

20                 Is that also one way that you try to ensure  
21   that parole decisions are objective, fair and  
22   evidence-based to try to avoid board fatigue for your  
23   staff?

24          **A. It would be, yes.**

25          Q. Would you agree that having too high a

1 number of hearings every day is a barrier to a fair and  
2 evidence-based decision?

3 **A. It could be.**

4 Q. How do you keep abreast of changes in the  
5 law that might impact the board's job?

6 **A. Just communication between attorneys for**  
7 **the department, and the updates in the state law that**  
8 **are passed and signed into law every year.**

9 Q. As chair are you involved at all in  
10 updating the Code of State Regulations?

11 **A. No.**

12 Q. Does the board vote on changes to state  
13 regs?

14 **A. Only to policy and procedures.**

15 Q. And who's in charge of hiring parole  
16 analysts?

17 **A. I guess that would probably be my job.**

18 Q. Do you know what the hiring criteria is for  
19 a parole analyst?

20 **A. It's usually someone who's very experienced**  
21 **in the process, and has a lot of knowledge about the**  
22 **parole process, as well as experience supervising other**  
23 **people.**

24 Q. So generally speaking are parole analysts  
25 hired from positions already within probation and

1 parole?

2 **A. Yes.**

3 Q. What about institutional parole officers,  
4 do you know who's in charge of selecting and hiring  
5 IPOs?

6 **A. The district administrators and the**  
7 **regional administrators, they interview for those**  
8 **position -- interview people for those positions.**

9 Q. And who makes the hiring decision?

10 **A. It would be the interview panel.**

11 Q. Are you on that interview panel?

12 **A. Not for the institutional parole officers.**

13 Q. Are you on the interview panel for district  
14 administrators?

15 **A. Yes.**

16 Q. And are you on the interview panel for  
17 regional administrators?

18 **A. Yes. And sometimes on the district**  
19 **administrators, but always on the regional.**

20 Q. And is that just because the regional  
21 administrators are a higher level position --

22 **A. Yes.**

23 Q. -- or they can be?

24 So that's an example you knew where I was  
25 going with the question, but we talked over each other

1 a little, so I'll try to avoid that going forward.

2 Are there written policies or procedures  
3 that govern formal or -- sorry.

4 Are there written policies and procedures  
5 that dictate a formal structure order for parole  
6 hearings?

7 **A. I don't know if it's in policy and**  
8 **procedures, but the prehearing reports are written in**  
9 **a -- in the same manner statewide so that we can follow**  
10 **them as we conduct our hearings.**

11 Q. And just to clarify, I think we're on the  
12 same page here, but there are different kinds of parole  
13 hearings, correct? Parole grant hearings, or  
14 revocation hearings might be other types of hearings?

15 **A. Yes.**

16 Q. I'm talking about parole grant hearings  
17 specifically in the context of this case, okay?

18 So you said that the prehearing reports  
19 which were prepared by the IPOs follow a standard and  
20 consistent order and outline, correct?

21 **A. That's a fair statement.**

22 Q. And then those prehearing reports  
23 themselves are basically the structure for running a  
24 parole hearing; is that fair?

25 **A. Yes.**

1           Q.    Other than what's in the prehearing report,  
2   are there any other written policies and procedures or  
3   rules that govern how these hearings should be run?

4           **A.    There are guideline memos.  But they**  
5   **basically indicate how the prehearing report is**  
6   **structured as far as content.**

7           Q.    Who issues these guideline memos?

8           **A.    They've just been around for years.**

9           Q.    I don't know if any such documents have  
10  been produced in this case.

11          **A.    I don't think it's a document that is**  
12   **formalized.  It's something I had a gentleman write it**  
13   **down on a piece of paper for me when I started.**

14                   MS. BREIHAN:  We can talk about it during  
15  break.  But if there are written guideline memos that  
16  talk about how hearings are run, I think it would be  
17  responsive to our request for production.

18                   We can talk about it at a break.

19  BY MS. BREIHAN:

20          Q.    Are there any policies or procedures in  
21  place that discuss accommodations to be made for  
22  inmates with mental or physical disabilities?

23          **A.    Not that I'm aware of.**

24          Q.    Is there any process in place for screening  
25  inmates for mental disabilities or limitations in

1 preparation for parole hearings?

2           **A. I'm not sure if there's any policies and**  
3 **procedures, but the offenders are examined to see if**  
4 **they're sound mentally and physically before a hearing.**  
5 **And if they're taking their prescribed medication.**

6           Q. So as part of the parole review process,  
7 there's a physical and mental health examination?

8           **A. I think they are screened for mental**  
9 **health, yes.**

10          Q. And so I just want to make sure I  
11 understand the timeline.

12                   You think they are screened for mental  
13 health in proximity and in preparation for their parole  
14 hearing.

15           **A. I think that's ongoing while they're**  
16 **incarcerated.**

17          Q. And that's the case even if they're not  
18 receiving mental health services on a regular basis?

19           **A. (The witness nodded his head.) As far as I**  
20 **know.**

21          Q. And then the prehearing report includes  
22 some of this health information?

23           **A. Yes.**

24          Q. There's no policy or procedure that  
25 requires a full board for these juvenile life without



1 parole hearings, correct?

2 **A. Correct.**

3 Q. They're run just the same as any other  
4 parole hearing, correct?

5 **A. Yes.**

6 Q. With a three-person panel, and then one of  
7 those panel members being a board member, correct?

8 **A. That's correct.**

9 Q. And they've been described, fair to say by  
10 other board members, as sort of informal, not court,  
11 not retrying the case is what they like to say?

12 **A. Right.**

13 Q. Is that correct? They've been referred to  
14 as like interviews or conversations; is that consistent  
15 with your experience?

16 **A. Yes.**

17 Q. Who's allowed to attend parole hearings?

18 **A. The hearing panel. Victim advocate.**

19 **Victims. A delegate for the offender. And a**  
20 **spokesperson or a support person for a victim.**

21 Q. Anyone else?

22 **A. Only parole officers who are observing.**

23 Q. Are prosecuting attorneys allowed to  
24 attend?

25 **A. As a victim. They have. They've come to**

1     **hearings as a victim.**

2             Q.     Okay.  So you talked about sort of three  
3     people who seem to fall within the category of a victim  
4     or victims representative.  As to who can attend, it  
5     includes the victim or victim advocate and a support  
6     person, correct?

7             **A.     Support person for the victim, yes.**

8             Q.     And so there might be instances where, for  
9     example, there is a victim, a victim's advocate, and a  
10    support person for the victim all present on that side  
11    of things?

12            **A.     Yes.**

13            Q.     And then could the prosecuting attorney  
14    also be present in addition to the victim support  
15    person and the victim's advocate?

16            **A.     Yes.**

17            Q.     So that's four people on the victim's side.  
18                    How many delegates does the inmate get?

19            **A.     One.**

20            Q.     And can law enforcement also attend?

21            **A.     Yes.**

22            Q.     Are there any limitations on the number of  
23    law enforcement officers who are allowed to attend  
24    parole hearings?

25            **A.     Not that I'm aware of.**

1           Q.    Are victims ever allowed to have more than  
2 one support person present?

3           **A.    I don't think so.**

4           Q.    And if it's multiple victims they all have  
5 the right to be there, correct?

6           **A.    They do.**

7           Q.    And they can speak outside of the inmate's  
8 presence if they want to, correct?

9           **A.    Yes.**

10          Q.    They can give a detailed account of the  
11 crime, underlying crime, correct?

12          **A.    Yes.**

13          Q.    And then they can make a request to the  
14 board whether or not this inmate should be released on  
15 parole, correct?

16          **A.    Yes.**

17          Q.    Similarly, law enforcement, they're allowed  
18 to speak outside of the inmate's presence if they want,  
19 correct?

20          **A.    Yes.**

21          Q.    And the prosecuting attorneys, too, if they  
22 want to speak outside of the inmate's presence they can  
23 do that?

24          **A.    Yes.**

25          Q.    And they can also give an account of the

1 crime?

2 **A. Yes.**

3 Q. And they can also make a request as to  
4 whether or not the inmate should be released on parole,  
5 correct?

6 **A. Correct.**

7 Q. And the victims -- victim representative,  
8 law enforcement, and the prosecuting attorneys, they  
9 can have written statements?

10 **A. They can.**

11 Q. Are they kept in the parole file?

12 **A. Yes.**

13 Q. And is the inmate allowed to see the parole  
14 file?

15 **A. No.**

16 Q. So there may be instances where an inmate  
17 has his or her parole hearing, and there is opposition  
18 from the victims, from law enforcement, and from  
19 prosecuting attorneys that they never hear or see,  
20 correct?

21 **A. I think that could happen.**

22 Q. Where is it memorialized in policy and  
23 procedure who can attend parole hearings?

24 **A. I don't know the exact policy and**  
25 **procedure.**

1           Q.    And why is it that the inmate's only  
2    allowed to bring one delegate?

3           **A.    I don't know.**

4           Q.    Have you ever had discussions, either as a  
5    member of the board, or now as chair, about modifying  
6    that one delegate limit?

7           **A.    No.**

8           Q.    Have there been instances where an inmate  
9    has asked to have an attorney and a delegate present?

10          **A.    Yes.**

11          Q.    Tell me about that.

12          **A.    It was a case at J triple C.  And there was  
13   an attorney and a family member, and he chose the  
14   family member to be with him during the hearings.**

15          Q.    Are you thinking of Sidney Roberts, by  
16   chance?

17          **A.    I'm not sure.  I was on the panel that day.**

18          Q.    You were?

19          **A.    I don't think it was Sidney Roberts.**

20          Q.    Was this when you were a member or chair?

21          **A.    Yes.  Member.**

22          Q.    Do you know if it was a juvenile life  
23   without parole case?  Or no?

24          **A.    It was not.**

25          Q.    Okay.

1           **A.    To my recollection, it was not.**

2           Q.    And did you have any discussions with the  
3 inmate about that decision between attorney or family  
4 member?

5           **A.    Simply that he wanted his family member**  
6 **there.**

7           Q.    As chair, why wouldn't you allow an inmate  
8 to have a family member and an attorney present during  
9 the parole hearing?

10          **A.    I never gave it much thought.**

11          Q.    Well, as you sit here today thinking about  
12 it for the first time, are there any concerns that come  
13 to mind that would perhaps dissuade you from making  
14 such an accommodation or a change in procedure?

15          **A.    No.**

16          Q.    As you already testified to, if statements  
17 are made outside of the inmate's presence at a hearing  
18 by a victim or representative, either in person or by  
19 written submission, they -- they would have no idea  
20 what was said, correct?

21          **A.    That's correct.**

22          Q.    Because they're not allowed to see the  
23 parole file, correct?

24          **A.    Yes.**

25          Q.    And making a decision about whether

1 somebody's released from prison is an important  
2 decision, I think we can all agree; fair?

3 **A. Yes.**

4 Q. It's important to carefully consider as  
5 much relevant evidence as you can, right?

6 **A. Yes.**

7 Q. And then make an objective evidence-based  
8 decision, correct?

9 **A. That's correct.**

10 Q. Don't you think it's important that the  
11 inmate know what evidence was considered in making that  
12 decision?

13 **A. Yes.**

14 Q. I just have one document to show you and  
15 then we can take a break.

16 I'll hand you what I've marked as  
17 Exhibit 1.

18 (Deposition Exhibit No. 1 was marked for  
19 identification.)

20 BY MS. BREIHAN:

21 Q. It's Bates-stamped AG03194 through 3198.

22 Do you recognize this document, Mr. Jones?

23 **A. I don't recognize it.**

24 Q. It appears to be a letter from [REDACTED]  
25 [REDACTED] to you dated June 13th, 2017, correct?

1           **A.    Yes.**

2           Q.    And it looks like it contains a letter from  
3   Florence Honickman, and it has a stamp on the first  
4   page that says Received June 15th, Missouri Board of  
5   Probation and Parole.

6                   Is that the stamp that goes on the mail  
7   when it arrives at your office?

8           **A.    Yes.**

9           Q.    So you probably received this, you just  
10   don't remember it as you sit here today?

11          **A.    Yes.**

12          Q.    Is it uncommon for you as chairman to get  
13   correspondence like this from the prosecuting attorney  
14   on a parole file?

15          **A.    It's not uncommon.**

16          Q.    And when you receive letters like this that  
17   relate, in this instance, to Norman Brown's parole  
18   decision, do you provide a copy of it to the inmate?

19          **A.    No.**

20          Q.    Why not?

21          **A.    Because it goes into the file.**

22          Q.    Is there a particular concern you have that  
23   precludes you from providing it to the inmate?

24          **A.    There is a concern for safety of the**  
25   **victims in these cases.**



1           Q.    Is the concern that the inmate would know  
2   the identity of the victim?

3                    I don't quite understand that.

4                    Could you clarify that for me?

5           **A.    It would be the identity of not only the**  
6   **victim, but also the prosecuting attorney's name is on**  
7   **here.**

8           Q.    And Norman Brown's hearing -- I know you  
9   weren't on the panel -- but both the prosecuting  
10   attorney and Ms. [REDACTED] were present at  
11   Norman Brown's hearing.

12                   Did you know that?

13           **A.    No.**

14           Q.    And they, I believe, both made statements  
15   with Mr. Brown present so he was aware of their  
16   presence that day.

17                   Did you know that?

18           **A.    I wasn't on that panel.**

19           Q.    I understand. But would that impact your  
20   decision about whether or not you would share this with  
21   Mr. Brown?

22                   If the concern was the identity of the  
23   attorney and the victim, and he already knew their  
24   identities obviously in their participation in the  
25   process, would that change whether or not you would

1 share this letter with Mr. Brown?

2 **A. No.**

3 Q. Did you respond to either Mr. [REDACTED] or  
4 Ms. [REDACTED]?

5 **A. If I did, I don't recall.**

6 Q. Had you responded would you have kept a  
7 copy of your written response in the parole file as  
8 well?

9 **A. Yes.**

10 Q. So if it's not in the parole file, can we  
11 assume then that you probably didn't respond?

12 **A. Yes.**

13 Q. Might you have responded with a phone call?  
14 Or would you typically respond in writing?

15 **A. I think this is simply a statement, as I**  
16 **read it, and doesn't really ask for a reply.**

17 **(A break was taken.)**

18 BY MS. BREIHAN:

19 Q. Mr. Jones, you testified earlier that one  
20 of your many responsibilities as chair is setting the  
21 number of hearing caps per day, correct?

22 **A. Yes.**

23 Q. What is the current cap?

24 **A. I think the cap is 18 at this time.**

25 Q. And you actually raised that from 14 when

1     you became chair; is that right?

2             **A.     Yes.**

3             **Q.     Why did you raise it?**

4             **A.     Because I felt like we could take breaks,**  
5     **and be more efficient in our hearing schedule, and also**  
6     **get the board more training time.**

7             **Q.     What was the reaction to that decision?**

8             **A.     I didn't hear a lot of criticism about it**  
9     **from the board members.**

10            **Q.     Did you consult any resources in**  
11     **determining that 18 was a magic number? Or --**

12            **A.     No.   Simply the time it takes to do**  
13     **hearings. You could do that in an eight-hour day and**  
14     **take several breaks.**

15            **Q.     So rather than test my math, what's the**  
16     **average length of a hearing?**

17            **A.     There is no average. And I say that**  
18     **because each case is individual. And even a minor case**  
19     **may take 45 minutes to an hour.**

20                    **But usually you can get through a case in**  
21     **20, 30 minutes, if it doesn't have any -- if it's a**  
22     **simple -- and I call it simple -- one that's, like, a**  
23     **Class C felony, like a burglary, where they can tell**  
24     **their story, we can read the report, and know real**  
25     **extenuating circumstances.**

1                   **Every case is on its own, though, on its**  
2   **own time schedule. It's very flexible.**

3           Q.    I understand. But if you're doing 18  
4   hearings a day, you can't spend 20 or 30 minutes on  
5   each of them, right?

6           A.    **You're correct.**

7           Q.    And I think there was testimony by others  
8   in this case that some hearings might be very short,  
9   they might be five minutes if the inmate doesn't want  
10  to talk?

11          A.    **If he says "just max me out," it can be**  
12 **very fast.**

13          Q.    So you don't think 18 hearings every day is  
14  too many?

15          A.    **Eighteen hearings like Mr. Brown's case**  
16 **would be too many.**

17                   **Eighteen hearings at a prerelease center,**  
18 **where the offender has already done time, gotten all**  
19 **his -- you could see the prerequisites to release. He**  
20 **has his education. He has his job training. He's gone**  
21 **to programs and training. And you can get through that**  
22 **case, and you know that you're gonna release him very**  
23 **shortly.**

24                   **And some of the cases are waiver of hearing**  
25 **cases, which either the offender or the board decides**

1 to hear, and they go very fast also.

2 Q. Kelly Dills testified that she thinks 14  
3 hearings a day is too many. You don't agree with that?

4 A. Fourteen hearings in a day is a very light  
5 load at a prerelease center.

6 Q. Understood.

7 When you were talking about hearings at a  
8 prerelease center you talked about prerequisites to  
9 release.

10 Are there certain conditions that if you  
11 satisfy them you will be released on parole?

12 A. Sooner. You would be given a better date.

13 Q. And what are those prerequisites?

14 A. As I indicated, the education, the  
15 training. Readiness for release is what we call it.

16 Q. Other than education or job training is  
17 there any other prerequisite to release?

18 A. Drug treatment.

19 Q. And that's true even if the inmate doesn't  
20 have a history of drug or alcohol abuse?

21 A. It's not effective. We don't have enough  
22 resources to send everyone who doesn't need it to the  
23 school.

24 In fact, it's considered a negative to the  
25 person to send them to treatment.

1           Q.    As a prerequisite to release, education,  
2   job training, and, if applicable, drug treatment.

3                    Anything else?

4           **A.    There are other programs in there.  They**  
5   **have a lot of programs.**

6           Q.    Such as ICBC, or criminal thinking, or  
7   anger management?

8           **A.    Pathways to Change.**

9           Q.    Is there a certain hours requirement that  
10   inmates are expected to satisfy?

11          **A.    No.**

12          Q.    And by education, do you mean whether or  
13   not they have their high school equivalency?

14          **A.    Or if they're working on it.  They are not**  
15   **prerequisites.  Just things that would help them get a**  
16   **better date by indicating that they're wanting to**  
17   **better themselves personally.**

18          Q.    So an inmate doesn't have to have their HSE  
19   to be released on parole you're saying?

20          **A.    No.**

21          Q.    Is there a written policy and procedure  
22   that identifies what factors the board is supposed to  
23   consider in making its decision?

24          **A.    I'm sure there is.**

25          Q.    Where would you find it?

1           **A.    In the policies and procedures.**

2           Q.    In the divisional manual we were talking  
3   about?

4           **A.    Yes.**

5           Q.    Anywhere else that you would be likely to  
6   find policies or procedures that would identify the  
7   factors that the board is supposed to consider in  
8   making its decisions?

9           **A.    Those books you referenced, perhaps.**

10          Q.    The Blue Book?

11          **A.    Yes.**

12          Q.    There's not a policy or procedure requiring  
13   panel -- hearing panel members to read the entire  
14   parole file before voting, correct?

15          **A.    Correct.   Yes.**

16          Q.    There's not any policy or procedure  
17   requiring hearing panel members to review the  
18   prehearing report before the actual hearing, correct?

19          **A.    No.**

20          Q.    I should phrase that better so it's clear  
21   for the record.

22                   Is there a policy and procedure requiring  
23   hearing panel members to read the prehearing report  
24   before hearing?

25          **A.    No.**

1           Q.    So what is the standard that the board  
2   considers in making its decision?

3           A.    The standard is consider the individual,  
4   along with the report, and determine their readiness  
5   for release. Based on those two things, the interview  
6   and the report.

7           Q.    Are you aware of the statute that talks  
8   about reasonable probability? In assessing reasonable  
9   probability that an inmate can be released without  
10   being a detriment to themselves or others?

11          A.    Yes.

12          Q.    What does that mean to you? That term  
13   "reasonable probability?"

14          A.    Reasonable probability that they will not  
15   be a danger to others means just that. It means that  
16   there's a good chance that they have -- they will not  
17   re-offend.

18          Q.    And how do you calculate that reasonable  
19   probability?

20          A.    We use not only factors that are involved  
21   in the salient factor, the items that are factored used  
22   to create the salient factor, but also the interview  
23   and the report. Perhaps conduct violations. And the  
24   report written by their institutional parole officer,  
25   which is the prehearing report.



1           Q.    But in the juvenile life without cases you  
2   don't use the salient factor score, correct?

3           **A.    I don't think so.**

4           Q.    Do you use any actuarial tools in assessing  
5   readiness for parole in these juvenile life without  
6   cases?

7           **A.    What do you mean by actuarial?**

8           Q.    Any sort of evidence-based tool, or  
9   research-based tool for assessing risk, or  
10   rehabilitation, other than the narrative that's in the  
11   prehearing report?

12          **A.    No.**

13          Q.    Do you use any guidelines in making  
14   decisions in the juvenile cases?

15          **A.    I'm not sure if there are guidelines on the  
16   juveniles.**

17          Q.    Well, for example, the Blue Book contains  
18   an appendices guidelines for release dates for various  
19   offenses, correct?

20          **A.    Yes.   That would be a good way to say it.**

21          Q.    Does the board consult those guidelines at  
22   all in these juvenile life without cases?

23          **A.    Not that I'm aware of.**

24          Q.    And is the board provided any training or  
25   tools that are specifically tailored to considering

1 youthful characteristics in reaching parole decisions  
2 in these cases?

3 **A. Repeat that question.**

4 Q. Is the board provided with any training or  
5 tools that are specifically tailored to considering  
6 youthful characteristics?

7 **A. No.**

8 Q. Are IPOs provided with any training or  
9 tools that are specifically tailored to considering  
10 youthful characteristics in making parole decisions in  
11 these cases?

12 **A. I don't know.**

13 Q. Who would know that?

14 **A. The IPOs themselves.**

15 Q. One of the documents you brought with you  
16 today was your Interrogatory Responses. I also brought  
17 a copy I was going to introduce as an exhibit.

18 I'll mark this as Exhibit 2.

19 (Deposition Exhibit No. 2 was marked for  
20 identification.)

21 BY MS. BREIHAN:

22 Q. As you mentioned, Exhibit 2 is  
23 Defendant Jones Responses to Plaintiffs' Response to  
24 Parole Board Defendants.

25 Do you remember preparing these responses,

1 I guess some time ago back in September of 2017  
2 thereabouts?

3 **A. Yes.**

4 Q. If you would turn to page 12, I want to  
5 direct your attention to Interrogatory No. 17, which  
6 asks you to describe in detail the process in which the  
7 parole board decided to deny parole to any of the  
8 Plaintiffs.

9 And the Plaintiffs in this case, the named  
10 Plaintiffs are Norman Brown, Ralph McElroy,  
11 Theron Roland and Sidney Roberts.

12 And your answer is that essentially what  
13 the board considers is confidential, correct?

14 **A. Yes.**

15 Q. Are you aware that there's a protective  
16 order in place in this case?

17 **A. No.**

18 Q. Well, I'll represent to you that there's a  
19 protective order in place in this case, under which  
20 your attorneys are -- we may designate information or  
21 documents as confidential or highly confidential.

22 With that knowledge in hand, are you able  
23 to answer substantively Interrogatory No. 17 as you sit  
24 here today?

25 **A. The process would be basically the same as**

1    any other hearing process with the exception that there  
2    is -- there are questions that have -- that are to be  
3    answered by the analyst about certain things that were  
4    taken into consideration during the hearing.

5                   (Deposition Exhibit No. 3 was marked for  
6    identification.)

7    BY MS. BREIHAN:

8           Q.    I'll show you Exhibit 3.  And is this is  
9    what you're referring to, it's marked AGO 28.

10                   Is this the list of questions the analyst  
11    has to have answered that you're talking about?

12           A.    Yes.

13           Q.    So it's your testimony that other than this  
14    Exhibit 3, the process through which the parole board  
15    decides whether or not to grant parole in these JL WOP  
16    cases is the same?

17           A.    Yes.

18           Q.    Is there any sort of policy and procedure  
19    dictating how the board votes in parole reviews?

20           A.    On any parole reviews?

21           Q.    Yeah.  Any parole grant decisions; yes?

22           A.    I guess you probably ought to repeat that  
23    question.

24           Q.    Are there any written policies or  
25    procedures that dictate how the board votes in parole

1 reviews?

2 **A. Yes.**

3 Q. And are those in the divisional manual?

4 **A. Yes.**

5 Q. Would they be written down anywhere else?

6 **A. I don't know.**

7 Q. And is the procedure for a board vote in  
8 these juvenile life without cases the same as your  
9 standard parole review hearing?

10 **A. Yes.**

11 Q. And these cases don't require a full board  
12 vote, correct?

13 **A. That is correct.**

14 Q. They do require a majority decision; is  
15 that right?

16 **A. Yes.**

17 Q. And that is determined, at least in part,  
18 the order in which the physical file is passed around  
19 in the office; is that fair?

20 **A. Yes.**

21 Q. Is there any sort of policy or procedure  
22 that requires any kind of deliberation or discussion by  
23 the board before voting?

24 **A. Yes. The policy and procedures manual.**

25 Q. So your testimony is that there's a written

1 policy and procedure that requires the board to have a  
2 discussion or open deliberation on a case before  
3 voting?

4 **A. I guess I don't understand your question.**

5 MR. SPILLANE: I'll object, compound. I  
6 think you asked him two separate things.

7 BY MS. BREIHAN:

8 Q. Let's take it part by part.

9 Is there any written policy or procedure  
10 that requires the board to discuss a case amongst  
11 itself before voting on the case?

12 **A. I'm not sure.**

13 Q. Is there any written policy or procedure  
14 which requires the board to deliberate on a case  
15 together, the full board, before voting on a case?

16 **A. Not that I'm aware of.**

17 Q. You're chair of the board, so I assume that  
18 you're expected to have a working knowledge of policies  
19 and procedures that govern the board's operations,  
20 correct?

21 **A. Yes.**

22 Q. Is there a policy or procedure that  
23 requires voting members to read the entire parole file  
24 before they vote?

25 **A. No.**

1           Q.    Is there a policy or procedure to review  
2   the prehearing report before voting?

3           **A.    I'm not sure on the last question.  I might**  
4   **have answered it wrong.  There are policies and**  
5   **procedures that require us to go over the information**  
6   **of the hearing panel before we make any decision or**  
7   **vote on a case.**

8           Q.    So are you referring to the board action  
9   sheet?

10          **A.    Yes.**

11          Q.    So it's your testimony that there is a  
12   written policy and procedure that requires voting  
13   members to read the board action sheet before voting?

14          **A.    I'm fairly certain there is.**

15          Q.    And that would be in the divisional manual?

16          **A.    Should be, yes.**

17          Q.    But the board action sheet is just part of  
18   the parole file, correct?

19          **A.    Yes.**

20          Q.    And in the case of these juvenile life  
21   without individuals.  We've seen parole files that  
22   could be a couple hundred pages; is that fair?

23          **A.    Yes.**

24          Q.    Is there any policy or procedure that  
25   requires voting members to read not just the board

1 action sheet, but the entire parole file before voting?

2 **A. Not that I'm aware of.**

3 Q. And I can't remember -- I'm sorry if you  
4 answered this question -- is there any policy or  
5 procedure requiring voting members to review the  
6 prehearing report before voting?

7 **A. I think there is.**

8 Q. And, again, that would be in the divisional  
9 manual?

10 **A. It would be.**

11 Q. How many times have you as a chair had to  
12 vote because of a tie in these juvenile life without  
13 cases?

14 **A. I don't think I have.**

15 Q. My understanding is that as chair you  
16 typically do not vote in parole grants; is that  
17 accurate?

18 **A. That's correct.**

19 Q. The only instances under which you as chair  
20 would vote is if you were on the hearing panel, or  
21 there was a tie amongst the voting members, correct?

22 **A. That would be the common practice, yes.**

23 Q. So I think you just said that there have  
24 been no instances that you've had to vote because of a  
25 tie in the juvenile life without cases?



1           **A.    I don't think so.**

2           Q.    Do you know, when Ellis McSwain was chair,  
3   how many times he had to vote because of a tie?

4           **A.    No.**

5           Q.    And so in most instances a majority  
6   decision was reached without the chair having to  
7   intervene?

8           **A.    I would assume.**

9           Q.    Would you agree with Mr. McSwain and  
10   Ms. Dills' assessment of Senate Bill 590 that it would  
11   be difficult for the board to determine this factor of  
12   subsequent growth and increased maturity since the  
13   underlying offense?

14                   I can show you what I'm referring to if  
15   that would be helpful.

16                   I'll go ahead and mark it Exhibit 4.  It's  
17   AGO1274 and 1275.

18                   (Deposition Exhibit No. 4 was marked for  
19   identification.)

20   BY MS. BREIHAN:

21           Q.    This is a memo from Ms. Dills to  
22   Ellis McSwain and Julie Kempker.  Subject of the memo  
23   is analysis of Senate Bill 590, juvenile reviews.

24                   Have you seen this before today, sir?

25           **A.    Not that I recall.**

1           Q.    So the language that I'm talking about is  
2 actually the first sentence of the last paragraph on  
3 the first page, where Ms. Dills says, "that measurement  
4 of subsequent growth and increased maturity since the  
5 offense will be difficult to gauge?"

6                    Would you agree with that assessment?

7           MR. SPILLANE:  I'll object to the question.  
8 I think you just read part of a sentence.  Maybe if you  
9 read the whole sentence.

10           MS. BREIHAN:  Sure.  I can read the whole  
11 sentence.

12 BY MS. BREIHAN:

13           Q.    The first sentence on the last paragraph of  
14 the first page, "Measurement of subsequent growth and  
15 increased maturity since the offense will be difficult  
16 to gauge unless there's file material available for the  
17 board's comparison that was obtained either during  
18 initial or subsequent court proceedings or as part of  
19 the process to certify the individual.

20                    "The board has no ability to pursue  
21 clinical opinions outside of departmental or contracted  
22 behavioral health staff to assess mental status or  
23 maturity level.

24                    "Likewise, the board does not have the  
25 ability to assess the reliability of evidence presented

1 during the trial, or adjudication process, with regard  
2 to the level of maturity or mental status at the time  
3 of the offense."

4 So to me it sounds like Ms. Dills is  
5 pointing out that this second factor, subsequent growth  
6 and increased maturity of the person since the offense  
7 or offenses occurred will be difficult, in her words,  
8 difficult to substantiate.

9 Would you agree with that assessment?

10 **A. Well, the assessment by the board would be**  
11 **the member who's doing the interview. But she is**  
12 **definitely not a -- none of us, to my knowledge, are**  
13 **clinicians in that area.**

14 Q. My question was poorly worded. I  
15 apologize.

16 Would you agree that it is difficult for  
17 the board to substantiate or evaluate in these juvenile  
18 life without cases the inmate's subsequent growth and  
19 maturity since the underlying offense occurred?

20 **A. I think the reason for the interview is so**  
21 **that you can determine the individual's growth and**  
22 **increased maturity.**

23 Q. Yeah. I understand and appreciate that.

24 My question is whether or not you think  
25 it's difficult for the board to assess the subsequent

1 growth and increased maturity.

2 **A. Is it difficult? Yes.**

3 Q. And so you mentioned a big part of making  
4 that assessment is the in-person interview with the  
5 inmate, correct?

6 **A. Yes.**

7 Q. Where you might be able to get information  
8 from the inmate themselves about their childhood, their  
9 youth, and how they've matured over time, correct?

10 **A. Yes.**

11 Q. And perhaps if their delegate is a family  
12 member, he might also be able to get relevant  
13 information from that delegate as well, correct?

14 **A. Yes.**

15 Q. And on the second page here, Ms. Dills also  
16 says that "Risk reduction is assessed using a validated  
17 tool."

18 Looking at the paragraph that starts with  
19 the fifth point, my question is, if you know, what  
20 validated tool she's talking about that's used to  
21 assess risk reduction?

22 **A. I would have to assume that would be the**  
23 **salient factor.**

24 Q. Do you recall in 2016 having any  
25 discussions with Ms. Dills, or Ms. Kempker, or any of

1 the other board members or chair, about Senate  
2 Bill 590?

3 **A. We discussed it as a board that we were**  
4 **gonna start doing this as a result of the Senate bill.**  
5 **And anyone who was convicted and had 25 years in would**  
6 **be given the opportunity for a parole hearing.**

7 Q. There are certainly instances where inmates  
8 have more than 25 years in and they've not been given a  
9 hearing, correct?

10 **A. I would assume that.**

11 Q. Or they've been told you're not eligible  
12 because of other consecutive sentences you have?

13 **A. Yes.**

14 Q. But to your recollection, there was a  
15 meeting of the board after 590 was passed where you  
16 discussed the impact of the bill; is that fair?

17 **A. Yes.**

18 Q. What do you recall from that discussion?

19 **A. That we would have to fill out an**  
20 **additional piece of paper at the parole hearings on**  
21 **juvenile life without parole.**

22 Q. Anything else?

23 **A. Not really. Except the 25 years rule.**

24 Q. What do you mean "the 25 years?"

25 **A. If they served 25 years unless they had a**

1       **consecutive sentence.**

2               Q.    To confirm, that's Exhibit 3?

3               **A.    Yes.**

4               Q.    And were you given any instruction as to  
5   how to elicit information on each of these five factors  
6   on Exhibit 3?

7               **A.    I don't think we had any training on that.**

8               Q.    Do you know who prepared Exhibit 3?  Who  
9   designed it?

10              **A.    No.**

11              Q.    How is an inmate told about their parole  
12   decision once a majority decision has been reached?  
13   How is that conveyed to the inmate?

14              **A.    I am told -- and I don't know except  
15   second-hand -- the institutional parole officer gets  
16   the answer from the parole board, and it is -- he calls  
17   the offender in and gives him the information.**

18                       (Deposition Exhibit No. 5 was marked for  
19   **identification.**)

20   BY MS. BREIHAN:

21              Q.    I'm going to show you Exhibit 5.  It's  
22   AGO2624 and 2625.

23                       Have you ever seen this document before  
24   today, sir?

25              **A.    I have.  I don't know about this particular**

1     **one.**

2             Q.     But the form that this is on is familiar to  
3     you; is that fair?

4             **A.     Yes.**

5             Q.     This is a decision notice to Mr. Theron  
6     Roland, correct?

7             **A.     Yes.**

8             Q.     And, to your knowledge, is this the  
9     standard form that's used to convey all parole  
10    decisions to inmates?

11            **A.     Yes.**

12            Q.     And this language on the first page, the  
13    bottom of the first page regarding the reasons for the  
14    action taken, that's standard language from the second  
15    page of the board action sheet, correct?

16            **A.     Yes.**

17            Q.     And I can show you what I'm talking about  
18    so we're not referring to things in the abstract here.

19                    I'll mark it Exhibit 6.

20                    (Deposition Exhibit No. 6 was marked for  
21    identification.)

22    BY MS. BREIHAN:

23            Q.     This is Mr. Roland's board action sheet.  
24    So the standard language I'm talking about here is on  
25    the second page of Exhibit 6, the four different

1 reasons with sub-parts, correct?

2 **A. Yes.**

3 Q. Who determines what sort of boilerplate  
4 language is here to select from on the second page of  
5 the board action sheet?

6 **A. Who determines the language printed on**  
7 **that?**

8 Q. Yeah. Do you know who designed this board  
9 action sheet?

10 **A. I have no clue.**

11 Q. Do you know how it's determined what  
12 different bases for your decisions are made available  
13 here to select from?

14 **A. Just the form?**

15 Q. Right.

16 **A. It's been there since I've been there.**

17 Q. Okay. If, for example, you wanted to add a  
18 factor here as an option, would you be able to do that?

19 **A. I would definitely talk to other people for**  
20 **advice. But if there was a good reason to change this,**  
21 **we could change it.**

22 Q. You'd have authority to do that?

23 **A. I think so.**

24 Q. And it also looks like there are blank  
25 lines, for example, it says other, and there's a place



1 to handwrite a reason as well?

2 **A. Yes.**

3 Q. Have you ever done that during your time  
4 with the board?

5 **A. I don't specifically recall any time that I**  
6 **did.**

7 Q. Have you ever seen in any of these juvenile  
8 life without cases a unique basis for denial in the  
9 board action sheet?

10 **A. No. There is writing at the top where it**  
11 **says hearing panel comments. You can see on page one**  
12 **of Exhibit 6.**

13 Q. And why are you pointing that out to me?

14 **A. Because that would be the same as you would**  
15 **write on the 1G.**

16 Q. Okay. So is it your testimony that the  
17 basis for the decision is not only the box that's  
18 marked on the second page, but also the handwritten  
19 comments in the hearing panel comments?

20 **A. Yes.**

21 Q. Is there anywhere else where the basis for  
22 the board's decision would be indicated in a file?

23 **A. No.**

24 Q. And this Exhibit 5, which is the notice  
25 that actually goes to the inmate -- strike that.

1                   The inmate doesn't get a copy of the board  
2   action sheet, right?

3                   **A.    That is correct.**

4                   Q.    So the only written information that the  
5   inmate gets about why their parole decision was made is  
6   this notice, an example of which we've marked as  
7   Exhibit 5, correct?

8                   **A.    Yes.**

9                   Q.    In your opinion, does this notice give  
10   enough explanation to an inmate as to why they've been  
11   denied parole?

12                   Let's talk specifically about Mr. Roland's  
13   notice here, if that's easiest for you.

14                   Does this notice in your opinion give  
15   enough explanation to the inmate about why they're  
16   being denied parole?

17                   **A.    No.**

18                   Q.    And in your opinion does this give enough  
19   information to the inmate about why they're being given  
20   a five-year setback, in particular, rather than, for  
21   example, a two, three, or four-year setback?

22                   **A.    No.**

23                   Q.    What does it mean, "based solely on the  
24   circumstances of the offense," as is indicated in  
25   Exhibit 5?

1           **A.    Are you referring to the writing at the**  
2   **bottom of the page?**

3           Q.    This Exhibit 5, the notice that went to  
4   Mr. Roland in January of 2017, it conveys to him he's  
5   been given a five-year setback. And the basis for this  
6   decision is because "release at this time would  
7   depreciate the seriousness of the present offense based  
8   on circumstances surrounding the present offense."

9                   I'm wondering in layman's terms what that  
10 means.

11           **A.    That means just what it says. The offense**  
12   **as it occurred, the circumstances that they were**  
13   **involved in.**

14                   And this is the reason I said this is not  
15 enough. If the IPO, who delivers this, is also a part  
16 of the notification, and would explain -- if he doesn't  
17 recall the present offense -- the IPO could go over the  
18 present offense and remind him of those circumstances.

19           Q.    Is the IPO on the hearing panel?

20           **A.    The IPO is not part of the hearing panel.**

21           Q.    So they're not present during these  
22 hearings, correct?

23           **A.    No.**

24           Q.    And they're certainly not present when the  
25 board is voting on these cases, correct?

1           **A.    Yes.**

2           Q.    But it's the IPO's job you're saying  
3   to explain to the inmate beyond what's provided in this  
4   notice?

5           **A.    I certainly hope so.**

6           Q.    And I guess I'm still -- I don't understand  
7   what it means to you -- why -- can you just sort of  
8   tell me hypothetically why would you deny someone based  
9   on the circumstances of the present offense?

10          **A.    Why would I deny parole?**

11          Q.    Based on circumstances surrounding the  
12   present offense. I'm trying to understand what that  
13   particular basis for a decision means.

14          **A.    The offense as it occurred and those**  
15   **circumstances around it. The evidence that was**  
16   **produced and given to us, not only in the interview,**  
17   **but also in the reports that the parole boards gets.**

18          Q.    Does it mean it's a particularly bad or  
19   serious crime?

20          **A.    It could be.**

21          Q.    Does it mean that in the board's opinion  
22   the inmate hasn't served the punitive and deterrent  
23   portion of their sentence yet?

24          **A.    It could be that also.**

25          Q.    Would you agree that all of these juvenile

1 life without cases involve serious crimes?

2 **A. Yes.**

3 Q. They're all serving sentences for  
4 first-degree murder, correct?

5 **A. Yes.**

6 Q. Did you ever have any discussion with  
7 anybody about not denying parole in these juvenile life  
8 without cases based on circumstances of the offense?

9 **A. No.**

10 Q. Were you ever witness to any such  
11 discussion or conversation?

12 **A. Not that I recall.**

13 Q. Have you had any discussions with anyone  
14 about -- other than your attorneys who are here  
15 today -- about modifying this notice to inmates of  
16 their parole decisions?

17 **A. No.**

18 Q. Parole hearings in Missouri are closed to  
19 the public, correct?

20 **A. That is correct.**

21 Q. Why are they not open to the public?

22 **A. Safety and security of those involved on  
23 the parole board.**

24 Q. Are you aware of other states that have  
25 parole hearings that are open to the public?

1           **A.    I think there is another state out west.**

2   **But I'm not for certain which state it is.**

3           Q.    Do you know a man by the named O.J.

4   Simpson?

5           **A.    Yes.   That would be the western state,**

6   **wouldn't it?**

7           Q.    Maybe.

8                   I'll show you what I'm going to mark as

9   Exhibit 7.

10                   (Deposition Exhibit No. 7 was marked for  
11   identification.)

12   BY MS. BREIHAN:

13           Q.    This is AG0110.

14                   It looks like a letter that you wrote to  
15   your attorney, Mr. Spillane, on or about August 14,  
16   2017.

17                   Do you recognize this document?

18           **A.    Yeah.**

19           Q.    This was produced in this case in  
20   discovery.

21                   Did you speak with anyone other than your  
22   attorneys in preparing this letter.

23           **A.    I might have talked to some other people in**  
24   **the office.  I don't particularly recall any**  
25   **conversation about it.**

1           Q.    Can you describe for me generally what the  
2   purpose of this letter was?

3           A.    It was -- it was to answer the question of  
4   why we think the majority of the records should be  
5   confidential.  And also how we consider parole for  
6   juvenile offenders, yes, as in that first paragraph.

7           Q.    Let's talk about the first chunk of that,  
8   specifically why the division of probation and parole  
9   keeps the majority of its record confidential.

10                  You indicate in the letter that releasing  
11   parole files to inmates would significantly hinder the  
12   division's ability to make the best paroling decisions  
13   possible.

14                  Why is that?

15           A.    I think the ability to be able to make a  
16   parole decision in many cases, especially in  
17   recidivism, would receive a lot of criticism.  And the  
18   safety of the people making the decision.

19                  And also the reaction by the general public  
20   to somebody being released on parole.

21           Q.    So you mentioned that there might be fear  
22   of criticism.  Criticism by whom?

23           A.    Criticism by the general public.

24           Q.    Are you saying these files are not given to  
25   inmates because of the potential backlash by the

1 general public in response to parole decisions?

2           **A. No. They're not given to the -- well, that**  
3 **could be part of the reason. But if they're given to**  
4 **the -- if it was open to the public, the abilities of**  
5 **the parole board to take a risk and give a shorter or a**  
6 **better parole date, I think, would be hindered.**

7           Q. Have you ever been on the Missouri  
8 Department of Corrections website?

9           **A. No.**

10          Q. Are you aware that there's an inmate lookup  
11 function? I actually use it quite a bit.

12                   Do you know about this?

13          **A. I guess you can get on the internet and**  
14 **look up on other -- on most anything. And FileBound.**  
15 **Our files.**

16          Q. In my experience, there's this publicly  
17 available tool called the inmate lookup, or something  
18 like that, where you can look up by name an inmate  
19 under the supervision of the Department of Corrections,  
20 and it will tell you where they're housed, or if  
21 they're on probation, where their parole office is.

22                   So the public has access to information  
23 about whether or not someone has been released on  
24 parole; isn't that correct?

25          **A. I think they can get it, yes.**



1           Q.   My question here is specifically focused on  
2   why the parole file is not shared with the inmate. So  
3   not the general public, but the inmate, whose decision,  
4   whose case you're considering, why you think it would  
5   hinder making good parole decisions if you would allow  
6   inmates access to their parole file?

7           **A.   As in the face sheet?**

8           Q.   Well, so may you could tell what you think  
9   of when you hear the term "parole file."

10          **A.   A parole file is -- it would include the**  
11 **board action sheet.**

12          Q.   And it also probably include the prehearing  
13 report, correct?

14          **A.   Yes.**

15          Q.   And any police reports or incident reports,  
16 correct?

17          **A.   Yes.**

18          Q.   Any letters of support or opposition from  
19 the community or family members or staff, correct?

20          **A.   Yes.**

21          Q.   Would have it also contain case-related  
22 documents?

23               For example, in the named Plaintiffs' case,  
24 I think they had a copy of our lawsuit in their parole  
25 file. Is that uncommon?

1           **A.    Is it uncommon for it to be in the parole**  
2 **file?**

3           Q.    Yes.

4           **A.    No.**

5           Q.    Is there anything else that I haven't asked  
6 about that you would generally would see in a parole  
7 file?

8           **A.    I don't think so.**

9           Q.    Okay.  So maybe we are in agreement --  
10 that's sort of what we're thinking of when we use that  
11 term "parole file."

12                   So I'll repeat my question, which is why  
13 would allowing an inmate access to their parole file  
14 hinder -- significantly hinder, in your words -- the  
15 division's ability to make the best paroling decisions  
16 possible?

17           **A.    I think because of the danger to the**  
18 **officer making recommendation.**

19           Q.    Who are you referring to by "officer?"

20           **A.    The parole board member.  Or the analyst.**  
21 **Or the person in the institution.**

22           Q.    Any other reasons why you think it would  
23 significantly hinder the board's abilities to make a  
24 decision?

25           **A.    They may think that the decision we make is**

1 based on evidence. The offender may think it's based  
2 on trying to get back -- um, trying to punish them  
3 more, or do something. They would be looking for  
4 someone to blame if they don't like the date or like  
5 the setback.

6 And there's some fear that -- and some  
7 evidence -- that things have happened as a result of  
8 these files being made open to the offender.

9 Q. But the explanation for the board's  
10 decision is in this board action sheet, right?

11 A. Yes.

12 Q. So you explained that the inmate might  
13 think the decision is not based on evidence, but you're  
14 explaining the evidence-based reasons for your decision  
15 in the board action sheet, right?

16 A. Yes.

17 Q. So, for example, in Mr. Roland's board  
18 action sheet, it talks about in multiple places how  
19 he's done very well, he accepted responsibility.

20 The third sheet of this Exhibit 6, it  
21 mentions in multiple places he hasn't had any conduct  
22 violations since 2001, and he's been in honor dorm for  
23 over 13 years.

24 A. I see that.

25 Q. So that's part of the -- some of the

1 factors that were considered in determining whether  
2 Mr. Roland was ready for release; is that fair to say?

3 A. Yes. These should be factors that are  
4 recognized.

5 Q. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

1 [REDACTED]  
2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED].

8 Q. So I think you were saying that the concern  
9 is that -- and correct if I'm wrong -- if the inmate's  
10 given access to the parole file and board action sheet  
11 that perhaps board members might not be comfortable  
12 voting a certain way for fear of retaliation; is that  
13 fair?

14 A. I think there would be retaliation,  
15 perhaps, from the offender, but also reaction from the  
16 general public.

17 Q. What about the rest of the parole file? So  
18 excluding the board action sheet, do you have similar  
19 concerns with respect to the inmate's access to that  
20 information?

21 A. These files are all prepared by  
22 individuals. They're human beings. And they put  
23 things in files that are confidential. That they  
24 are -- they know is not going to be made public;  
25 therefore, they can make a more accurate statement, if

1     there are serious accusations, or serious evidence to  
2     be presented.

3                     This is very easy to print, 'cause this is  
4     all positive. But the prehearing report is not a  
5     positive report. Always. Parts of it is. Parts of it  
6     are not. This particular sheet is positive.

7                     If the person has made the efforts towards  
8     rehabilitation, had growth and maturity, and accepted  
9     responsibility. And it could also be negative. But  
10    you would hope if the person was trying to get parole,  
11    that these would all be positives. So the board could  
12    take into consideration and have it overbalance the  
13    facts of the case.

14                    Q.    You also mentioned in your letter that if  
15    inmates had access to their parole file they might be  
16    able to influence who supervises them and how.

17                            Could you clarify what you mean by that?

18                    A.    That would be -- I think it would have to  
19    do with their home plan, and who they would be  
20    supervised with on the street. Perhaps location. Some  
21    parole officers hold offenders more accountable. We're  
22    all different. And they are all different.

23                    Q.    So can you explain for me -- I'm  
24    confused -- how an inmate would be able to influence  
25    who they would be supervised by in the field by nature

1 of having access to their parole file?

2 What information is in the parole file that  
3 would give the inmate the ability to influence which  
4 field supervisor he would have?

5 A. If they knew that a particular officer  
6 didn't -- was more lenient, perhaps, if they were being  
7 supervised for drugs. Or perhaps knows that a  
8 particular parole officer didn't work nights and  
9 weekends. And they could get a home plan to an area  
10 where they wouldn't have as much supervision.

11 Q. The prehearing report contains or is  
12 supposed to contain the inmate's home plan, right?

13 A. Sometimes.

14 Q. And another concern you mentioned is the  
15 victim information being present in the parole file,  
16 correct?

17 A. Yes.

18 Q. And you also say parole files may contain  
19 accounts of an offender's crimes.

20 Why is it concerning that an inmate might  
21 have access to the accounts of their crimes? That's  
22 not concerning because that information usually comes  
23 from the offender.

24 I was wondering why it's included in this  
25 letter that's talking about the importance of

1 confidentiality.

2           **A. They might not know who their victims were.**  
3 **If it was included.**

4           Q. Is that true with these juvenile life  
5 without cases?

6           **A. I don't know.**

7           Q. In the last paragraph of this letter, you  
8 talk about the second part of the letter which is the  
9 process for considering parole in these juvenile life  
10 without cases.

11                   You say that the board's created a  
12 worksheet that outlines the additional factors that the  
13 General Assembly directed to board to consider when  
14 making paroling decisions on these offenders.

15                   You use the word "offenders." Is that the  
16 Exhibit 3 that we marked earlier?

17           **A. Yes.**

18           Q. So for these juvenile life without cases,  
19 the only additional factors that the board considers  
20 are the ones that are outlined in this Exhibit 3?

21           **A. What was the question again?**

22           Q. So is it true that for these juvenile life  
23 without cases the only additional factors that the  
24 board considers are outlined in the worksheet we marked  
25 as Exhibit 3?



1           **A.    Yes.**

2           Q.    You talked earlier about board meetings,  
3   and it was in the context of training sessions.  How  
4   often are board meetings held?

5           **A.    Generally, once a month.**

6           Q.    And are they open to the public?

7           **A.    No.**

8           Q.    Can they be?

9           **A.    I never gave it much thought.  I don't**  
10   **know.**

11          Q.    So you're not aware of whether there's any  
12   sort of statute or regulation when board meetings can  
13   be open versus closed?

14          **A.    That's correct.**

15          Q.    Are board votes ever posted as open?

16          **A.    No.**

17          Q.    Do you know whether they can be?

18          **A.    I don't know.**

19          Q.    So you're not aware of any statutes or  
20   regulations when -- or when votes might be open to the  
21   public?

22          **A.    No.**

23          Q.    And are hearings themselves recorded?

24          **A.    Yes.**

25          Q.    Are the hearings ever made public?

1           **A.    No.**

2           Q.    I'm sorry, the hearing of the recordings?

3           **A.    No.**

4           Q.    Are the hearing recordings provided to the  
5 inmate?

6           **A.    I don't think so.**

7           Q.    Are the recordings of these hearings made  
8 available to anyone other than board members?

9           **A.    Not without a court order. It would be my**  
10 **assumption.**

11          Q.    What are you basing that assumption off of?

12          **A.    Because I don't think anyone else has**  
13 **access to those recordings.**

14          Q.    Were recordings provided to Amy Roger, the  
15 Inspector General, to your knowledge?

16          **A.    I don't know.**

17          Q.    Does probation and parole track the  
18 outcomes of these juvenile life without hearings?

19          **A.    I think we keep track of them, yes.**

20          Q.    Do you know who does that?

21          **A.    No.**

22          Q.    Do you ever check on the progress of how  
23 many grants versus denials there are in the juvenile  
24 life without cases?

25          **A.    I saw some data on that.**

1 Q. When was that?

2 A. Recently.

3 Q. Is it something you asked for or something  
4 that was voluntarily provided to you?

5 A. I think I asked Mr. Mueller about it.

6 Q. Is it something that you asked for on a  
7 regular basis?

8 A. No. Just when this case came up.

9 Q. Okay. So are you saying that after this  
10 case was filed you asked Mr. Mueller for data on the  
11 outcomes on these juvenile life without hearings?

12 A. Yes.

13 (Deposition Exhibit No. 8 was marked for  
14 identification.)

15 BY MS. BREIHAN:

16 Q. I'll show you Exhibit 8. This was produced  
17 but it wasn't Bates-stamped. I think it was a  
18 supplement. It's dated 10-23-17.

19 Have you seen this chart before today,  
20 Mr. Jones?

21 A. I may have seen it. I don't know that I  
22 remember it.

23 Q. So do you know who maintains this worksheet  
24 by chance?

25 A. There are several people that work on

1    **information like that. I don't know who particularly**  
2    **does this.**

3           Q.    It appears to be -- please take your time  
4    to look it over. It's just a one and a quarter page  
5    document. But it appears to be a chart of the petition  
6    dates, hearing dates, and results for juvenile life  
7    without parole inmates as of October 23rd, 2017.

8                   Is that fair?

9           **A.    Yes.**

10          Q.    And it looks like there are three release  
11    dates indicated here. For Houston, Edward Ramsey and  
12    Michael McRoberts, correct?

13          **A.    Yes.**

14          Q.    Are you aware of any other release dates  
15    being given by the board since the date of this chart?

16          **A.    No. In juvenile life without cases.**

17          Q.    I'll show you another document produced by  
18    Mr. Mueller, but not marked. I'll mark it now as  
19    Exhibit 9.

20                   (Deposition Exhibit No. 9 was marked for  
21    identification.)

22    BY MS. BREIHAN:

23          Q.    This appears to be a November 1st email to  
24    you, Mr. Jones, from Mueller and Jennifer Zamkus.

25                   Do you recognize this email?

1           **A.    I remember seeing it, yeah.**

2           Q.    Had you asked Mr. Mueller to prepare this  
3 JL WOP decision analysis?

4           **A.    I don't know if I asked it or if it was a**  
5 **mutual, in a conversation.**

6           Q.    Okay.

7           **A.    That he was able to get this information.**

8           Q.    Okay. And he seems to indicate that there  
9 were four release dates set. He says of 22 eligible  
10 for release within five years there were four release  
11 dates set.

12                   But this chart marked as Exhibit 8 shows  
13 three. Do you know who that fourth person was that was  
14 given a release date?

15           **A.    No, I don't.**

16           Q.    Who would you talk to to find that out?

17           **A.    Probably Mr. Mueller.**

18           Q.    Does the name Edward Anderson ring a bell  
19 to you?

20           **A.    No.**

21           Q.    Are there any juvenile life without parole  
22 hearings scheduled in 2018 yet?

23           **A.    I don't know.**

24           Q.    Do you generally keep track of, or keep  
25 yourself informed on the parole hearing calendar that's

1 part of your duties as chair?

2 **A. I do.**

3 Q. But you don't know if there are any  
4 juvenile life without parole hearings coming up?

5 **A. I don't know.**

6 Q. Do you know what the conditions for parole  
7 are for those who are given outdates under this new  
8 Senate Bill 590?

9 **A. No.**

10 Q. Who would you talk to to find that out?

11 **A. The conditions of parole, you'd have to  
12 look at the board action sheet.**

13 Q. And would that also indicate how long that  
14 person was expected to be on parole?

15 **A. Yes, that information would be in there,  
16 yes.**

17 Q. Do you know what the term of parole is for  
18 individuals who are being given outdates under this  
19 change in the law?

20 **A. I don't.**

21 Q. So you don't know if they'll have to be on  
22 parole and supervision for the rest of their lives?

23 **A. I don't.**

24 Q. Did you discuss this lawsuit with anyone  
25 other than your attorneys that are here today?

1           **A.    Mr. Mueller.  In getting these figures.**

2           Q.    And you're referring to the figures in  
3 Exhibit 9?

4           **A.    Yes.**

5           Q.    Tell me everything you remember about your  
6 conversation with Mr. Mueller regarding the Exhibit 9.

7           **A.    It was -- we had a discussion.  I wanted to**  
8 **know how many we released versus how many we hear.  And**  
9 **how many were ineligible because of other factors.**

10          Q.    And you said you wanted to know how many of  
11 them were released?

12          **A.    Set a release date.**

13          Q.    And that release date can be taken away,  
14 right?

15          **A.    It can be.**

16          Q.    It can be adjusted as well, right?

17          **A.    Yes.**

18          Q.    And you also mentioned that there might be  
19 individuals who are ineligible, correct?

20          **A.    Yes.**

21          Q.    For example, the name escapes me, but my  
22 understanding, there is an individual who is serving  
23 two active life without parole sentences, correct?

24                I'm trying to find it here.  Donald  
25 Stewart.  If you look on Exhibit 8, it indicates that

1 he had hearing on December 20th, 2016, by  
2 videoconference, but due to CS -- does CS mean  
3 consecutive sentence?

4 **A. Yes.**

5 Q. That he would not be eligible until 2032,  
6 correct?

7 **A. Yes.**

8 Q. So Mr. Stewart's case is an example of an  
9 instance where the individual impacted by Senate Bill  
10 590 is not eligible according to the board for parole  
11 release after 25 years, correct?

12 **A. That's correct.**

13 Q. In fact, he was told he has to serve  
14 50 years before he can be considered for release,  
15 correct?

16 **A. Yes.**

17 Q. So?

18 **A. Apparently. It's quite apparent that's  
19 what it is.**

20 Q. I don't know Mr. Stewart's age at the time  
21 of the underlying offense, but we know he was under 18  
22 by being impacted by Senate Bill 590.

23 Safe to say he would be in his late 60s by  
24 the time he even becomes parole eligible, right?

25 **A. He would be if he was 16 or 17.**



1 Q. And if Mr. Stewart has a parole hearing in  
2 2032 when he's in his 60s, in your mind is that  
3 providing him a meaningful opportunity for release?

4 MR. SPILLANE: I'll object to the question  
5 because it calls for a legal conclusion.

6 You can answer it if you have an opinion.

7 THE WITNESS: I don't have an opinion.

8 BY MS. BREIHAN:

9 Q. Do you know anything about life expectancy  
10 of people who are incarcerated versus the general  
11 public?

12 A. No.

13 Q. Do you know that people who are  
14 incarcerated, black men in particular, have a lower  
15 life expectancy than their counterparts in general?

16 MR. SPILLANE: I'll object to you  
17 testifying. If you know the answer ...

18 THE WITNESS: I don't know the answer.

19 BY MR. BREIHAN:

20 Q. And when somebody's granted parole, it's up  
21 to the board to set an outdate, one, two, three,  
22 five years in the future, correct?

23 A. Yes.

24 Q. So even if -- continuing this discussion on  
25 Mr. Stewart -- even if he has a hearing in 2032, what's

1 the earliest he could be released from prison by the  
2 parole board?

3 **A. The earliest that someone can be given is**  
4 **ASAP.**

5 Q. So he could walk out the day of his  
6 hearing?

7 **A. He could get that answer. But he wouldn't**  
8 **be processed out for a few days.**

9 Q. I understand. In August of 2017, didn't  
10 you have a meeting where you and others listened to  
11 audio recordings relevant to this case?

12 **A. In reference to which case?**

13 Q. The named Plaintiffs, Mr. Roland,  
14 Mr. Brown, Mr. Roberts, and Mr. McElroy's hearings.

15 Do you remember that?

16 **A. I don't remember that.**

17 Q. You don't remember that?

18 **A. No.**

19 Q. Okay.

20 (Deposition Exhibit No. 10 was marked for  
21 identification.)

22 Q. This is AGO0176. Take a look at that.

23 **A. Okay.**

24 Q. This is an email from Pam Rogers to you and  
25 others.

1 Do you recall receiving this email?

2 **A. My name is on there. On the list. But I**  
3 **don't remember.**

4 Q. Okay. It's dated August 28th, 2017.  
5 "Please plan to attend JL WOP 1:30 p.m. in Kenny's  
6 office. You will be listening to the hearings on the  
7 four defendants in the pending lawsuit."

8 Do you know who called this meeting in your  
9 office on August 30th, 2017?

10 **A. I don't know.**

11 Q. Safe to assume, since it was at your  
12 office, that you were involved in setting this up?

13 **A. I'm sure I was.**

14 Q. Do you recall listening to the hearings on  
15 the four named plaintiffs in this lawsuit?

16 **A. No.**

17 Q. Do you recall any discussion that day about  
18 the plaintiffs' hearings?

19 **A. No.**

20 Q. Do you recall any discussion since that day  
21 about any of the named Plaintiffs' parole hearings?

22 **A. No.**

23 Q. And it looks like some other individuals  
24 were invited to attend this JL WOP hearing review,  
25 including Steve Mueller, correct?

1           **A.    Yes.**

2           Q.    And is he the lead parole analyst?

3           **A.    Yes.**

4           Q.    And then Gary Dusenberg was also on this  
5 email invitation, and Mr. Dusenberg is a board member,  
6 correct?

7           **A.    Yes.**

8           Q.    Charlie Baker and Brian George, they're  
9 both parole analysts?

10          **A.    Yes.**

11          Q.    And Jay Boresi, he's DOC legal, correct?

12          **A.    Yes.**

13          Q.    Mr. [REDACTED] was involved in Mr. Roland's  
14 hearing along with [REDACTED]. Why was he not  
15 invited to this JL WOP hearing review?

16          **A.    I don't know.**

17          Q.    Mr. [REDACTED] was involved in Mr. Roberts --  
18 he was on his hearing panel along with Brian George,  
19 but he was not invited to this JL WOP hearing review;  
20 why was that?

21          **A.    I don't know.**

22          Q.    Do you know what the purpose of this  
23 hearing review was?

24          **A.    No.**

25          Q.    Have you reviewed the audio recordings in

1 any other juvenile life without cases?

2 **A. No.**

3 Q. Are you aware -- strike that. You're aware  
4 of Mr. Don Ruzicka's misconduct during certain parole  
5 hearings, correct?

6 **A. Yes.**

7 Q. In fact, you reported it to Kelly Dills in  
8 2016, didn't you?

9 **A. I did.**

10 Q. Were you involved at all in disciplining  
11 Mr. Ruzicka?

12 **A. No.**

13 Q. Do you know, in fact, whether he was  
14 disciplined at all?

15 **A. No. I knew that he had resigned.**

16 Q. You accepted his resignation letter, in  
17 fact, right?

18 **A. I did.**

19 Q. And he resigned on June 12th, 2017,  
20 correct?

21 **A. I'm not sure of the exact date. It's been  
22 a while; but, yes, I accepted his resignation.**

23 Q. The effective date was August 1st, 2017, so  
24 he had some time?

25 **A. I think he had leave.**

1           Q.    So he used up leave before his retirement  
2   was effective, correct?

3           **A.    Yes.**

4           Q.    And his seat has since been filled by  
5   Mr. Fitzwater, correct?

6           **A.    That's correct.**

7           Q.    Has Mr. Fitzwater run any juvenile life  
8   without hearings?

9           **A.    I don't know.**

10          Q.    Do you know whether he's scheduled to?

11          **A.    I don't know that either.**

12          Q.    And there is actually one vacancy on the  
13   board currently, correct?

14          **A.    That's correct.**

15          Q.    A democratic seat, correct?

16          **A.    It can be either way. We have three and  
17   three.**

18          Q.    You're referring to the requirement that  
19   there be no more than?

20          **A.    Four.**

21          Q.    Four of one political party, correct?

22          **A.    That's correct.**

23          Q.    But the seat vacant was left by  
24   Mr. McSwain, correct?

25          **A.    Yes.**

1           Q.    Have you had discussions with anybody about  
2   who might fill that vacancy?

3           **A.    No.**

4           Q.    Do you know the timeline for filling the  
5   vacancy?

6           **A.    No.**

7           Q.    Are you aware of any other misconduct or  
8   unethical conduct by board members or parole staff?

9           **A.    No.**

10          Q.    And, Ms. Dills, whose name we mentioned  
11   here a few times, she's no longer the board operations  
12   manager, correct?

13          **A.    Correct.**

14          Q.    Who made the decision to move her away from  
15   that position?

16          **A.    I did.**

17          Q.    Why did you make that decision?

18          **A.    Because I wanted someone who was closer to  
19   the other analysts and could communicate better with  
20   them.**

21          Q.    What do you mean closer with the other  
22   analysts? Like personally? Had a better relationship  
23   with them?

24          **A.    Yes.**

25          Q.    And who is the current board operations

1 manager?

2 **A. Steve Mueller.**

3 Q. So I'm confused. I thought his title was  
4 lead parole analyst?

5 **A. It is.**

6 Q. So he -- he has the position?

7 **A. He assumed the duties --**

8 Q. Understood.

9 **A. -- of the board operations manager.**

10 Q. So there's no intention to fill any vacant  
11 board operations manager position, is there?

12 **A. With one board vacancy we don't -- we have**  
13 **the same workload, but we don't have someone available**  
14 **to go to hearings, so we haven't hired another analyst.**  
15 **We almost need another analyst to go with the board**  
16 **member. Should we get a new board member, at that**  
17 **point we might restructure again.**

18 Q. Okay. I know the board members are  
19 gubernatorial appointees, correct?

20 **A. Yes.**

21 Q. Does the Governor consult with you at all  
22 in determining who to appoint?

23 **A. I haven't had any communication with him**  
24 **about anyone else after Mr. Fitzwater.**

25 Q. Okay. Your son used to work for



1 Governor Greitens, correct?

2 **A. He did.**

3 Q. And he also served four terms as state  
4 representative for Moniteau County, correct?

5 **A. Yes.**

6 Q. Did you ever discuss Senate Bill 590 with  
7 Caleb Jones?

8 **A. No.**

9 Q. Did you ever discuss 590 with any other  
10 state legislators?

11 **A. No.**

12 Q. Are you aware of the Justice Reinvestment  
13 Task Force that Greitens set up?

14 **A. Yes.**

15 Q. Are you involved in that task force in any  
16 way?

17 **A. Yes. I'm a member of it.**

18 Q. You're a member of the task force?

19 **A. Yeah.**

20 Q. Can you tell me what your duties or role is  
21 one that task force?

22 **A. As a member of the task force.**

23 Q. And what do you do?

24 **A. We listen to information and discuss ideas  
25 from council of state governments that might be**

1    **beneficial to the State of Missouri prison system and**  
2    **the parole system.**

3            Q.    So have you had discussions, been part of  
4    discussions as a member of the task force, about parole  
5    in Missouri?

6            A.    **Yes.**

7            Q.    Have any of those discussions included  
8    juvenile offenders' parole?

9            A.    **No.**

10          Q.    No. Okay. So what are the parole-related  
11   discussions about then?

12          A.    **There is a concern in Missouri about the**  
13   **high -- increasing number of women in our prisons. We**  
14   **only have two women's prisons, but they're becoming**  
15   **full.**

16                    **And some of the discussions are around the**  
17   **recidivism and why people are brought back.**

18          Q.    So you're talking about new arrests, or  
19   parole revocations, or both?

20          A.    **Technical violations that bring people**  
21   **back.**

22          Q.    Are you familiar with the Supreme Court  
23   decision Miller versus Alabama?

24          A.    **No.**

25          Q.    Have you ever read that decision before,

1     that opinion?

2             **A.     If you would remind me I could tell you,**  
3     **but I don't recall reading it.**

4             Q.     Are you familiar with the Supreme Court  
5     decision Montgomery versus Louisiana?

6             **A.     No.**

7             Q.     Have you read Senate bill 590?

8             **A.     I have.**

9             Q.     When's the last time you read it?

10            **A.     It's been last summer.**

11            Q.     2017?

12            **A.     Yes.**

13            MS. BREIHAN:   Let's take a break.

14            (A break was taken.)

15            MS. BREIHAN:   Back on the record.

16     BY MS. BREIHAN:

17            Q.     Earlier today you were talking about how  
18     the board doesn't use the salient factor score in these  
19     juvenile life without cases because you think it's  
20     irrelevant.

21            Do you remember that testimony?

22            **A.     It's irrelevant when they come in, yes.**

23            Q.     Can you explain to me then why the board  
24     does not use the salient factor score in these juvenile  
25     life without cases?

1           A.    I'm not sure if -- I know some of the  
2 factors on the salient -- some of the parts of the  
3 salient factor deal with prior crime. A juvenile would  
4 not have a criminal history, as such.

5                   The education probably would not be  
6 complete.

7                   Job readiness for a job would not be -- I'm  
8 just going by memory, I don't try to memorize this --  
9 but you wouldn't have education, job readiness.

10                  The age of that would -- could change the  
11 salient factor.

12           Q.    So are you saying that because of that,  
13 because the inmate's very young at the time that they  
14 were committed, that if you calculated the salient  
15 factor score it wouldn't be reliable?

16           A.    I guess reliable would be one word. It  
17 wouldn't be relevant to that person's life at that  
18 time, because in my mind, the salient factor is made  
19 for an adult who's had life experiences, who's perhaps  
20 been incarcerated before, who has an education, or has  
21 the opportunity to have had an education. Maybe a job  
22 or job training. And other factors that I can't  
23 remember.

24                   But it might be possible to develop one at  
25 a later time of their -- when they mature.

1           Q.    So the salient factor score is really  
2   geared for adult offenders, right?

3           **A.    In my opinion, yes.**

4           Q.    And children are different, correct?

5           **A.    Absolutely.**

6           Q.    Are you aware of any risk assessment tools  
7   that are designed specifically for juvenile offenders?

8           **A.    No.**

9           Q.    Have you researched or asked someone to  
10   research what such tools might be available?

11           **A.    The Ohio risk assessment tool may have some**  
12   **factors in it about juvenile -- about the age. About**  
13   **juveniles. I'm not sure. I don't remember the**  
14   **conversation.**

15           Q.    Does the salient factor score take into  
16   consideration age at all?

17           **A.    It does.**

18           Q.    And how do you know how that factors into  
19   the score?

20           **A.    It can change the score at a certain point.**  
21   **Like I said, at 40 you'd go from perhaps a zero to a**  
22   **one. One being better.**

23           Q.    And so if -- strike that.

24                   MS. BREIHAN: That's all the questions that  
25   I have.

1 MR. SPILLANE: I have a couple, sir.

2 CROSS-EXAMINATION BY MR. SPILLANE:

3 Q. Is the salient factor score a tool that you  
4 use with the guideline range for -- guides to the  
5 parole board about when on a grid someone might be  
6 paroled based on a particular offense and other  
7 factors?

8 A. Yes.

9 Q. Does the guideline range apply to juvenile  
10 life without parole offenders?

11 A. I don't believe so.

12 Q. You talked earlier about the involvement of  
13 the director of DOC with the parole board.

14 As far as you know, does the director of  
15 the DOC have any operational role in the activities of  
16 the parole board?

17 A. No.

18 Q. You talked a little bit earlier when you  
19 were shown the circumstances of the offense as a reason  
20 for decision, and you indicated that that might not  
21 be -- I don't remember the exact adjective -- but that  
22 might not be the best way to describe to the inmate  
23 what happened; is that fair?

24 A. Yes.

25 Q. In each of these cases, do you consider the

1 parole file, the parole report, and all of those  
2 factors in every JL WOP case, those five factors that  
3 are on the addition to the sheet?

4 **A. Yes.**

5 Q. So when it says circumstances of the  
6 offense, that doesn't indicate you didn't consider all  
7 those things?

8 **A. No.**

9 MR. SPILLANE: Those are all the questions  
10 I have.

11 MS. BREIHAN: Just a couple follow-ups.

12 REDIRECT EXAMINATION BY MS. BREIHAN:

13 Q. You testified that the guideline range  
14 doesn't apply?

15 **A. No.**

16 Q. There's no guidelines that the board uses  
17 in making a decision about when to release these  
18 inmates, other than this board action sheet, and the  
19 Exhibit 3 here, correct?

20 **A. Yes.**

21 Q. And you voted, as we saw in Exhibit 6, on  
22 Mr. Roland's parole decision, correct?

23 **A. Yes.**

24 Q. Did you review his entire parole file  
25 before you voted?

1           **A.    I certainly did.**

2           Q.    Okay.  So what evidence did you consider in  
3   regard to his subsequent growth and increased maturity  
4   since the offense occurred?

5           **A.    I reviewed the prehearing report.  I didn't**  
6   **do any further research into his -- is that your**  
7   **question?**

8           Q.    I'm asking what evidence.  You just told  
9   Mr. Spillane that you considered these five factors  
10  that are in Exhibit 3 in these cases; is that correct?

11          **A.    Yes.  In each case.**

12          Q.    I'm trying to get an understanding of what  
13  evidence you considered in particular in Mr. [REDACTED]  
14  case.

15                   And I asked you specifically about the  
16  second factor, subsequent growth and increased maturity  
17  since the offense or offenses occurred.

18          **A.    We -- I would have to say that I relied on**  
19  **this piece of paper here.**

20          Q.    And you're referring to Exhibit 6, page  
21  three?

22          **A.    Yes.**

23          Q.    And all it says there is no CVs since 2001  
24  and honor dorm for 13 years, correct?

25          **A.    Yes.**



1           Q.    It doesn't say anything who Mr. Roland was  
2   at the time of the underlying offense, does it?

3           **A.    It does not.**

4           Q.    And what evidence did you consider with  
5   respect to the fifth factor?  Was it again what's  
6   listed here on this third page of Exhibit 6?

7           **A.    It would be.**

8           Q.    Again, it doesn't say anything about who  
9   Mr. Roland was, what his life circumstances were at the  
10   time of sentencing for the underlying offense, does it?

11          **A.    That's correct.**

12          Q.    And nowhere on this board action sheet, or  
13   the third page that's attached to it, does it talk  
14   about his home life growing up, does it?

15          **A.    Not on this.  But it does in the prehearing  
16   report.**

17          Q.    Okay.  Did you listen to an audio recording  
18   of Mr. Roland's hearing before you voted?

19          **A.    No.**

20                MS. BREIHAN:  I have no further questions.

21                MR. SPILLANE:  We're good.

22                If you wish, you may review the transcript  
23   after it is completed to look for typographical errors,  
24   or you can sign that it is correct.

25                Or you may waive signature and just assume

1 the reporter will get it correct. In the past we've  
2 been waiving, but it's completely your decision.

3 THE WITNESS: She looks trustworthy.

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